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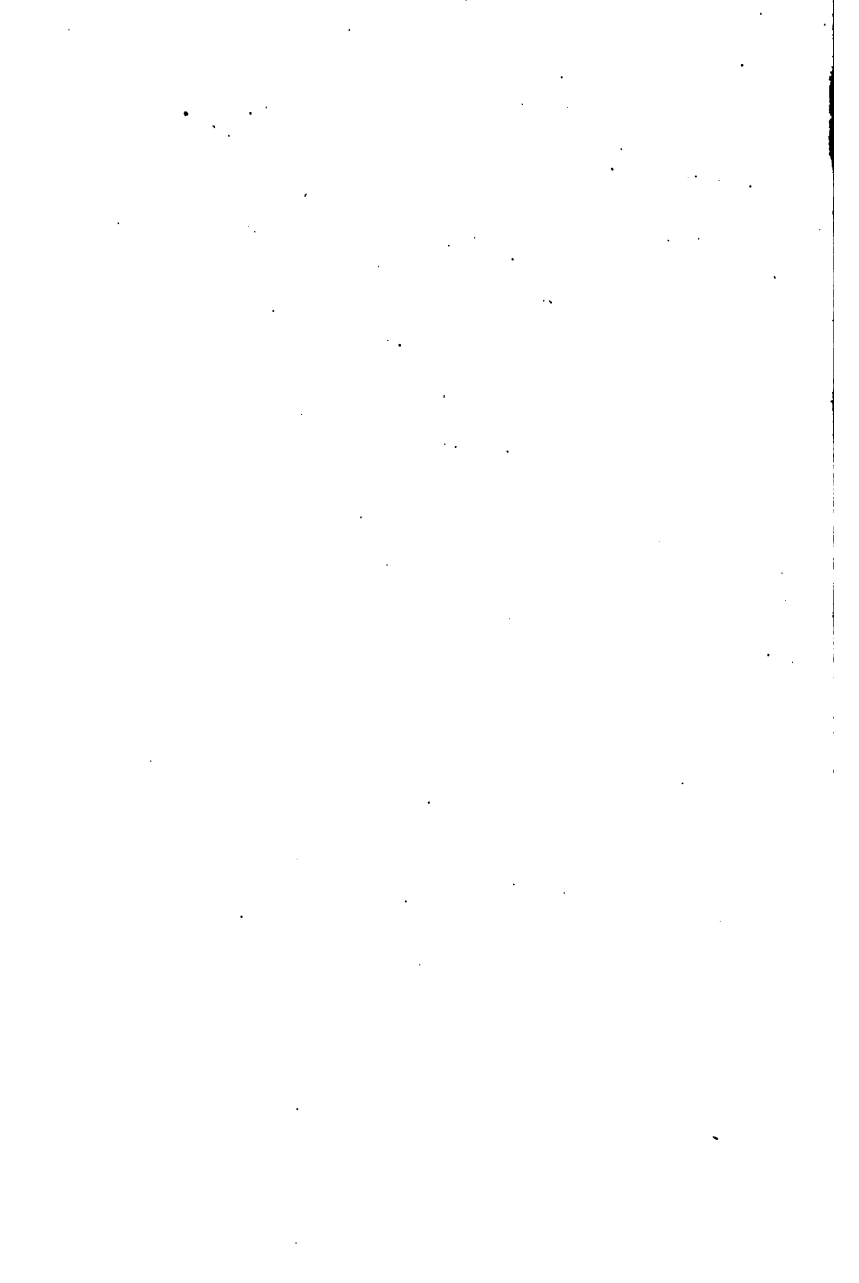
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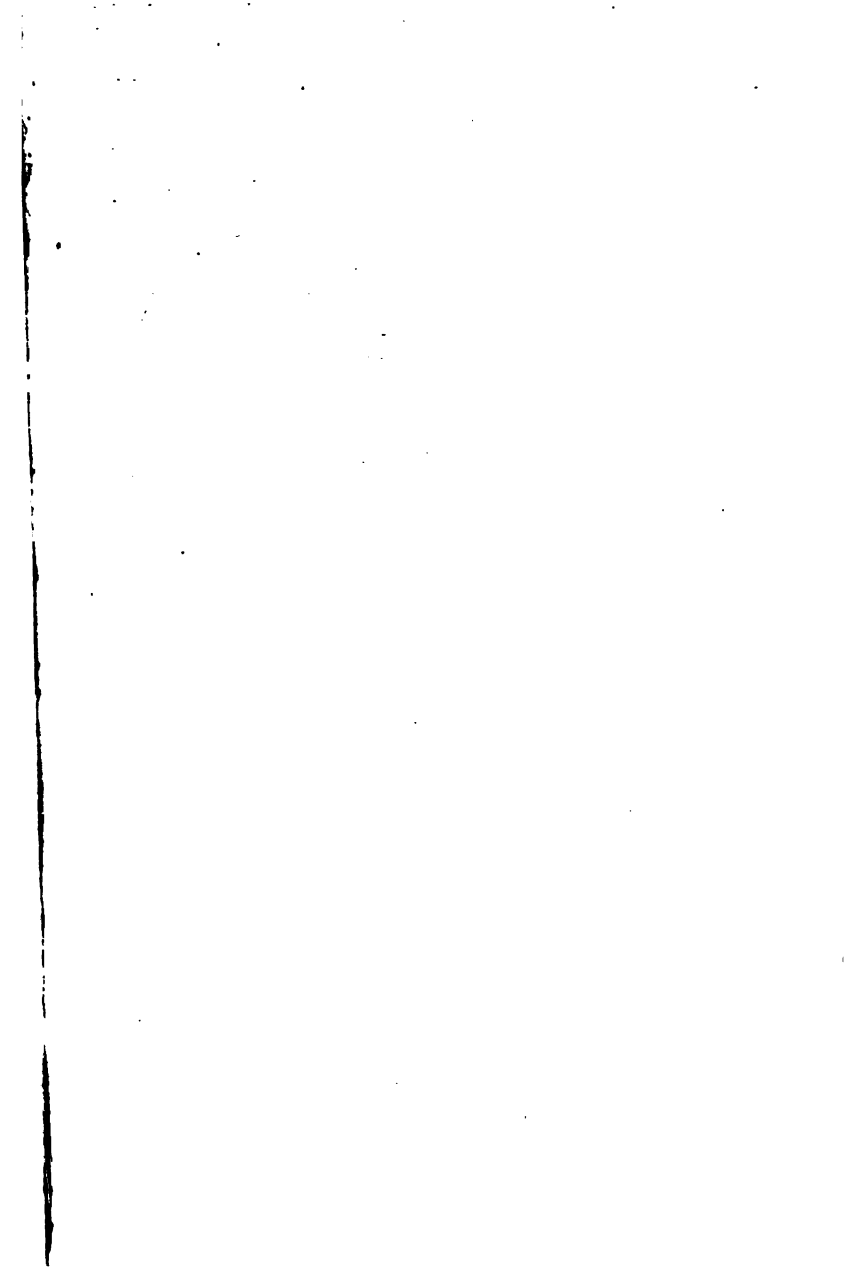
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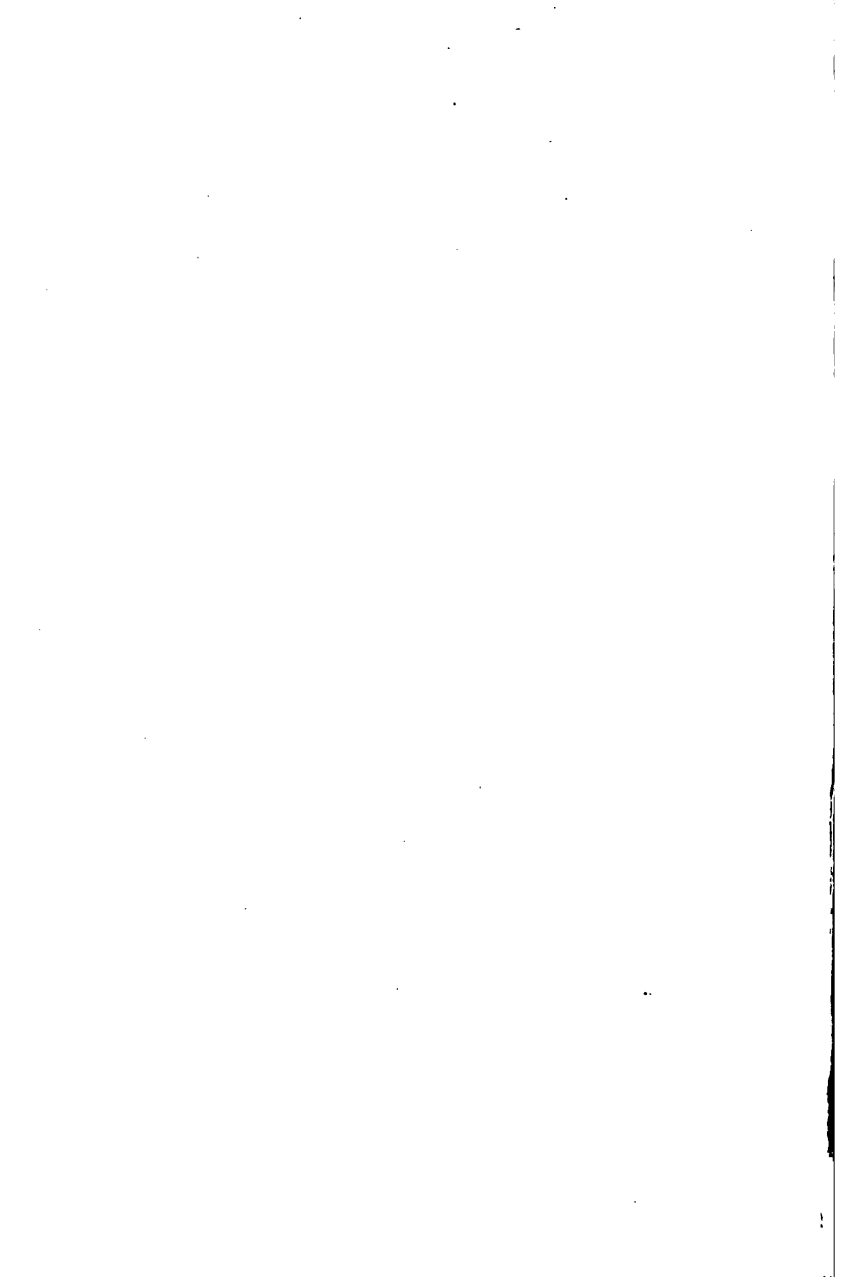
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AMERICAN ORATIONS

STUDIES IN AMERICAN POLITICAL HISTORY

EDITED WITH INTRODUCTIONS BY

ALEXANDER JOHNSTON

Late Professor of Jurisprudence and Political Economy in
the College of New Jersey

RE-EDITED WITH HISTORICAL AND
TEXTUAL NOTES BY

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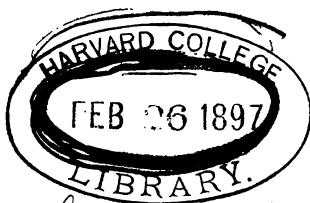
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PREFACE TO THE REVISED EDITION.

IN offering to the public a revised edition of Professor Johnston's *American Orations*, a brief statement may be permitted of the changes and additions involved in the revision. In consideration of the favor with which the compilation of Professor Johnston had been received, and of its value to all who are interested in the study of American history, the present editor has deemed it wise to make as few omissions as possible from the former volumes. The changes have been chiefly in the way of additions. The omission, from the first volume, of Washington's Inaugural and President Nott's oration on the death of Hamilton is the result, not of a depreciation of the value of these, but of a desire to utilize the space with selections and subjects which

are deemed more directly valuable as studies in American political history. Madison's speech on the adoption of the Constitution, made before the Virginia Convention, is substituted for one of Patrick Henry's on the same occasion. Madison's is a much more valuable discussion of the issues and principles involved, and, besides, the volume has the advantage of Henry's eloquence when he was at his best, at the opening of the American Revolution. In compensation for the omissions there are added selections, one each from Otis, Samuel Adams, Gallatin, and Benton. The completed first volume, therefore, offers to the student of American political history chapters from the life and work of sixteen representative orators and statesmen of America.

In addition to the changes made in the selections, the editor has added brief biographical sketches, references, and textual and historical notes which, it is hoped, will add to the educational value of the volumes, as well as to

the interest and intelligence with which the casual reader may peruse the speeches.

As a teacher of American history, I have found no more luminous texts on our political history than the speeches of the great men who have been able, in their discussions of public questions, to place before us a contemporary record of the history which they themselves were helping to make. To the careful student the secondary authorities can never supply the place of the great productions, the messages and speeches, which historic occasions have called forth. The earnest historical reader will approach these orations, not with the design of regarding them merely as specimens of eloquence or as studies in language, but as indicating the great subjects and occasions of our political history and the spirit and motives of the great leaders of that history. The orations lead the student to a review of the great struggles in which the authors were engaged, and to new interest in the science of government from the utterances and permanent productions of

viii *PREFACE TO THE REVISED EDITION.*

master participants in great political controversies. Certainly, there is no text-book in political science more valuable than the best productions of great statesmen, as reflecting the ideas of those who have done most to make political history.

With these ideas in mind, the editor has added rather extensive historical notes, with the purpose of suggesting the use of the speeches as the basis of historical study, and of indicating other similar sources for investigation. These notes, together with explanations of any obscurities in the text, and other suggestions for study, will serve to indicate the educational value of the volumes; and it is hoped that they may lead many teachers and students to see in these orations a text suitable as a guide to valuable studies in American political history.

The omissions of parts of the speeches, made necessary by the exigencies of space, consist chiefly of those portions which were but of temporary interest and importance, and which

would not be found essential to an understanding of the subject in hand. The omissions, however, have always been indicated so as not to mislead the reader, and in most instances the substance of the omissions has been indicated in the notes.

The general division of the work has been retained: 1. Colonialism, to 1789. 2. Constitutional Government, to 1801. 3. The Rise of Democracy, to 1815. 4. The Rise of Nationality, to 1840. 5. The Slavery Struggle, to 1860. 6. Secession and Civil War, to 1865. The extension of the studies covering these periods, by the addition of much new material has made necessary the addition of a fourth volume, which embraces the general subjects, (1) Reconstruction; (2) Free Trade and Protection; (3) Finance; (4) Civil-Service Reform. Professor Johnston's valuable introductions to the several sections have been substantially retained.

By the revision, the volumes will be confined entirely to political oratory. Literature and

religion have, each in its place, called forth worthy utterances in American oratory. These, certainly, have an important place in the study of our national life. But it has been deemed advisable to limit the scope of these volumes to that field of history which Mr. Freeman has called "past politics,"—to the process by which Americans, past and present, have built and conducted their *state*. The study of the state, its rise, its organization, and its development, is, after all, the richest field for the student and reader of history. "History," says Professor Seeley, "may be defined as the biography of states. To study history thus is to study politics at the same time. If history is not merely eloquent writing, but a serious scientific investigation, and if we are to consider that it is not mere anthropology or sociology, but a science of states, then the study of history is absolutely the study of politics." It is into this great field of history that these volumes would direct the reader.

No American scholar had done more, before

his untimely death, than the original editor of these orations, to cultivate among Americans an intelligent study of our politics and political history. These volumes, which he designed, are a worthy memorial of his appreciation of the value to American students of the best specimens of our political oratory.

J. A. W.

INTRODUCTORY.

ALL authorities are agreed that the political history of the United States, beyond much that is feeble or poor in quality, has given to the English language very many of its most finished and most persuasive specimens of oratory. It is natural that oratory should be a power in a republic ; but, in the American republic, the force of institutions has been reinforced by that of a language which is peculiarly adapted to the display of eloquence. Collections of American orations have been numerous and useful, but the copiousness of the material has always proved a source of embarrassment. Where the supply is so abundant, it is exceedingly difficult to make selections on any exact system, and yet impossible to include all that has a fair claim to the distinctive stamp of oratory. The results have been that our collections of public

speeches have proved either unsatisfactory or unreasonably voluminous.

The design which has controlled the present collection has been to make such selections from the great orations of American history as shall show most clearly the spirit and motives which have actuated its leaders, and to connect them by a thread of commentary which shall convey the practical results of the conflicts of opinion revealed in the selections. In the execution of such a work much must be allowed for personal limitations ; that which would seem representative to one would not seem at all representative to others. It will not be difficult to mark omissions, some of which may seem to mar the completeness of the work very materially ; the only claim advanced is that the work has been done with a consistent desire to show the best side of all lines of thought which have seriously modified the course of American history. Some great names will be missed from the list of orators, and some great addresses from the list of orations ; the apology for their omission is

that they have not seemed to be so closely related to the current of American history or so operative upon its course as to demand their insertion. Any errors under this head have occurred in spite of careful consideration and anxious desire to be scrupulously impartial.

Very many of the orations selected have been condensed by the omission of portions which had no relevancy to the purpose in hand, or were of only a temporary interest and importance. Such omissions have been indicated, so that the reader need not be misled, while the effort has been made to so manage the omissions as to maintain a complete logical connection among the parts which have been put to use. A tempting method of preserving such a connection is, of course, the insertion of words or sentences which the speaker might have used, though he did not ; but such a method seemed too dangerous and possibly too misleading, and it has been carefully avoided. None of the selections contain a word of foreign matter, with the exception of one of Randolph's speeches

and Mr. Beecher's Liverpool speech, where the matter inserted has been taken from the only available report, and is not likely to mislead the reader. For very much the same reason, foot-notes have been avoided, and the speakers have been left to speak for themselves.

Such a process of omission will reveal to any one who undertakes it an underlying characteristic of our later, as distinguished from our earlier, oratory. The careful elaboration of the parts, the restraint of each topic treated to its appropriate part, and the systematic development of the parts into a symmetrical whole, are as markedly present in the latter as they are absent in the former. The process of selection has therefore been progressively more difficult as the subject-matter has approached contemporary times. In our earlier orations, the distinction and separate treatment of the parts is so carefully observed that it has been comparatively an easy task to seize and appropriate the parts especially desirable. In our later orations, with some exceptions, there is an evidently de-

creasing attention to system. The whole is often a collection of *disjecta membra* of arguments, so interdependent that omissions of any sort are exceedingly dangerous to the meaning of the speaker. To do justice to his meaning, and give the whole oration, would be an impossible strain on the space available; to omit any portion is usually to lose one or more buttresses of some essential feature in his argument. The distinction is submitted without any desire to explain it on theory, but only as a suggestion of a practical difficulty in a satisfactory execution of the work.

The general division of the work has been into (1) Colonialism, to 1789; (2) Constitutional Government, to 1801; (3) the Rise of Democracy, to 1815; (4) the Rise of Nationality, to 1840; (5) the Slavery struggle, to 1860; (6) Secession and Reconstruction, to 1876; (7) Free Trade and Protection. In such a division, it has been found necessary to include, in a few cases, orations which have not been strictly within the time limits of the topic, but have had a close

logical connection with it. It is hoped, however, that all such cases will show their own necessity too clearly for any need of further explanation or excuse.

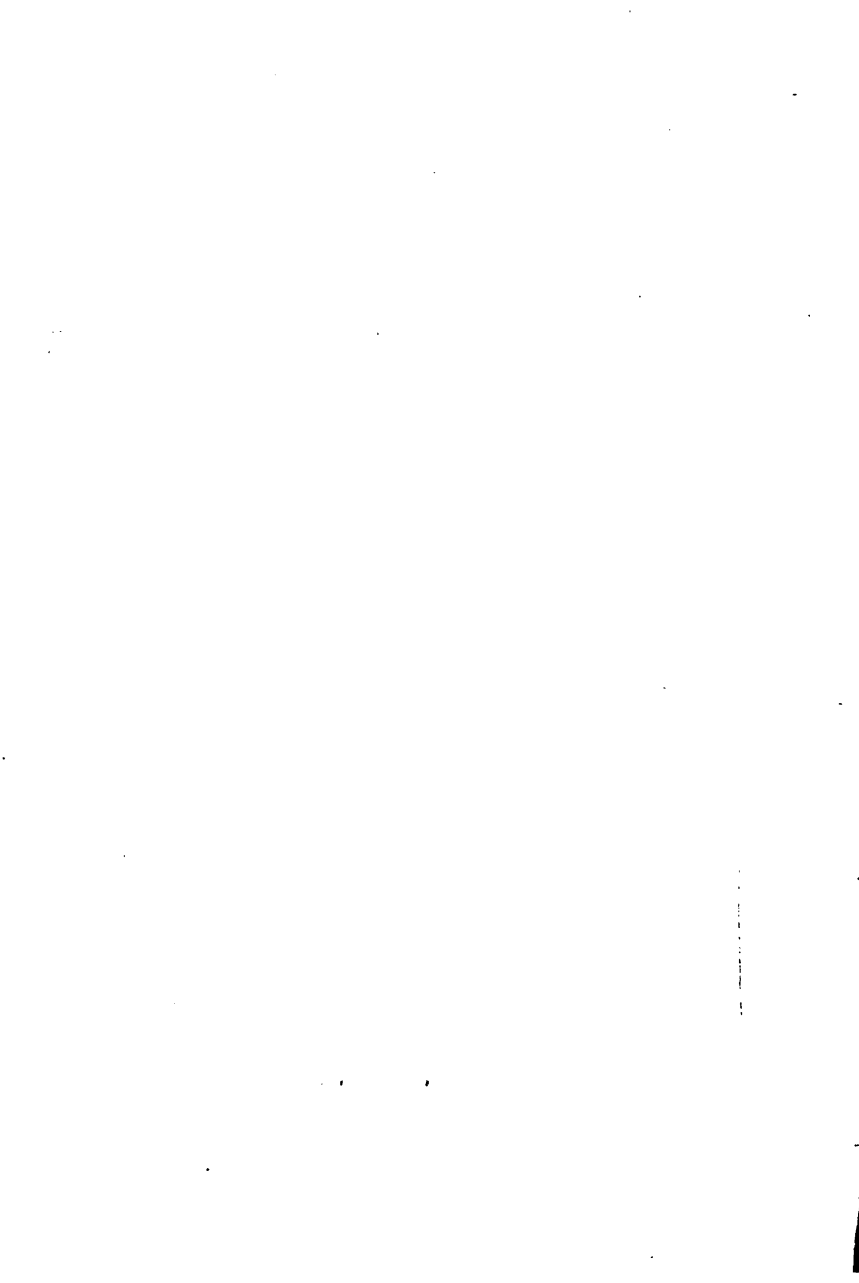
The work will be completed in three volumes.

PRINCETON, N. J., *July 1*, 1884.

I.

COLONIALISM.

THE FORMATION OF THE CON-
STITUTION.



I.

COLONIALISM.

THE FORMATION OF THE CONSTITUTION.

It has been said by an excellent authority that the Constitution was "extorted from the grinding necessities of a reluctant people." The truth of the statement is very quickly recognized by even the most surface student of American politics. The struggle which began in 1774-5 was the direct outcome of the spirit of independence. Rather than submit to a degrading government by the arbitrary will of a foreign Parliament, the Massachusetts people chose to enter upon an almost unprecedented war of a colony against the mother country. Rather than admit the precedent of the oppression of a sister colony, the other

colonies chose to support Massachusetts in her resistance. Resistance to Parliament involved resistance to the Crown, the only power which had hitherto claimed the loyalty of the colonists; and one evil feature of the Revolution was that the spirit of loyalty disappeared for a time from American politics. There were, without doubt, many individual cases of loyalty to "Continental interests"; but the mass of the people had merely unlearned their loyalty to the Crown, and had learned no other loyalty to take its place. Their nominal allegiance to the individual colony was weakened by their underlying consciousness that they really were a part of a greater nation; their national allegiance had never been claimed by any power.

The weakness of the confederation was apparent even before its complete ratification. The Articles of Confederation were proposed by the Continental Congress, Nov. 15, 1777. They were ratified by eleven States during the year 1778, and Delaware ratified in 1779.

Maryland alone held out and refused to ratify for two years longer. Her long refusal was due to her demand for a national control of the Western territory, which many of the States were trying to appropriate. It was not until there was positive evidence that the Western territory was to be national property that Maryland acceded to the articles, and they went into operation. The interval had given time for study of them, and their defects were so patent that there was no great expectation among thinking men of any other result than that which followed. The national power which the confederation sought to create was an entire nonentity. There was no executive power, except committees of Congress, and these had no powers to execute. Congress had practically only the power to recommend to the States. It had no power to tax, to support armies or navies, to provide for the interest or payment of the public debt, to regulate commerce or internal affairs, or to perform any other function of an efficient national government. It was

merely a convenient instrument of repudiation for the States ; Congress was to borrow money and incur debts, which the States could refuse or neglect to provide for. Under this system affairs steadily drifted from bad to worse for some six years after the formal ratification of the articles. There seemed to be no remedy in the forms of law, for the articles expressly provided that no alteration was to be made except by the assent of every State. Congress proposed alterations, such as the temporary grant to Congress of power to levy duties on imports ; but these proposals were always vetoed by one or more states.

In 1780, in a private letter, Hamilton had suggested a convention of the States to revise the articles, and as affairs grew worse the proposition was renewed by others. The first attempt to hold such a convention, on the call of Virginia, was a failure ; but five States sent delegates to Annapolis, and these wisely contented themselves with recommending another convention in the following year. Congress

was persuaded to endorse this summons ; twelve of the States chose delegates, and the convention met at Philadelphia, May, 14, 1787. A quorum was obtained, May 25th, and the deliberations of the convention lasted until Sept. 28th, when the Constitution was reported to Congress.

The difficulties which met the convention were mainly the results of the division of the States into large and small States. Massachusetts, Connecticut, Virginia, North Carolina, and Georgia, the States which claimed to extend to the Mississippi on the west and cherished indefinite expectations of future growth, were the "large" States. They desired to give as much power as possible to the new national government, on condition that the government should be so framed that they should have control of it. The remaining States were properly "small" states, and desired to form a government which would leave as much power as possible to the States. Circumstances worked strongly in favor of a reasonable result. There never were more

than eleven States in the convention. Rhode Island, a small State, sent no delegates. The New Hampshire delegates did not appear until the New York delegates (except Hamilton) had lost patience and retired from the convention. Pennsylvania was usually neutral. The convention was thus composed of five large, five small, and one neutral State; and almost all its decisions were the outcome of judicious compromise.

The large States at first proposed a Congress in both of whose Houses the State representation should be proportional. They would thus have had a clear majority in both Houses, and, as Congress was to elect the President, and other officers, the government would thus have been a large State government. When "the little States gained their point," by forcing through the equal representation of the States in the Senate, the unsubstantial nature of the "national" pretensions of the large States at once became apparent. The opposition to the whole scheme centred in the large States, with

very considerable assistance from New York, which was not satisfied with the concessions which the small States had obtained in the convention. The difficulty of ratification may be estimated from the final votes in the following State conventions: Massachusetts, 187 to 168; New Hampshire, 57 to 46; Virginia, 89 to 79; and New York, 30 to 27. It should also be noted that the last two ratifications were only made after the ninth State (New Hampshire) had ratified, and when it was certain that the Constitution would go into effect with or without the ratification of Virginia or New York. North Carolina did not ratify until 1789, and Rhode Island not until 1790.

The division between North and South also appeared in the convention. In order to carry over the Southern States to the support of the final compromise, it was necessary to insert a guarantee of the slave trade for twenty years, and a provision that three fifths of the slaves should be counted in estimating the population for State representation in Congress. But these

provisions, so far as we can judge from the debates of the time, had no influence against the ratification of the Constitution; the struggle turned on the differences between the national leaders, aided by the satisfied small States, on one side, and the leaders of the State party, aided by the dissatisfied States, large and small, on the other. The former, the Federalists, were successful, though by very narrow majorities in several of the States. Washington was unanimously elected the first President of the Republic; and the new government was inaugurated at New York, March 4, 1789.

The speech of Henry in the Virginia House of Delegates has been chosen as perhaps the best representative of the spirit which impelled and guided the American Revolution. It is fortunate that the ablest of the national leaders was placed in the very focus of opposition to the Constitution, so that we may take Hamilton's argument in the New York convention and Madison's in the Virginia convention, as the most carefully stated conclusions of the master-minds of the National party.

JAMES OTIS,*
OF MASSACHUSETTS¹
(BORN 1725, DIED 1783).

ON THE WRITS OF ASSISTANCE²—BEFORE THE SUPERIOR COURT OF MASSACHUSETTS, FEBRUARY, 1761.

MAY IT PLEASE YOUR HONORS: I was desired by one of the court to look into the books, and consider the question now before them concerning Writs of Assistance. I have accordingly considered it, and now appear not only in obedience to your order, but likewise in behalf of the inhabitants of this town, who have presented another petition, and out of regard to the liberties of the subject. And I take this opportunity to declare, that whether under a fee or not (for in such a cause as this I despise a fee), I will to my dying day oppose with all the powers and faculties God has given me, all such instruments of slavery on the one

* For notes on Otis see Appendix. p. 337.

hand, and villainy on the other, as this writ of assistance is.

It appears to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law-book. I must therefore beg your honors' patience and attention to the whole range of an argument, that may perhaps appear uncommon in many things, as well as to points of learning that are more remote and unusual: that the whole tendency of my design may the more easily be perceived, the conclusions better descend, and the force of them be better felt. I shall not think much of my pains in this cause, as I engaged in it from principle. I was solicited to argue this cause as Advocate-General; and because I would not, I have been charged with desertion from my office. To this charge I can give a very sufficient answer. I renounced that office, and I argue this cause from the same principle; and I argue it with the greater pleasure, as it is in favor of British liberty, at a time when we hear the greatest monarch upon earth declaring from his throne that he glories in the name of Briton, and that the privileges of his people are dearer to him than the most valu-

able prerogatives of his crown ; and as it is in opposition to a kind of power, the exercise of which in former periods of history cost one king of England his head, and another his throne. I have taken more pains in this cause than I ever will take again, although my engaging in this and another popular cause has raised much resentment. But I think I can sincerely declare, that I cheerfully submit myself to every odious name for conscience' sake ; and from my soul I despise all those whose guilt, malice, or folly has made them my foes. Let the consequences be what they will, I am determined to proceed. The only principles of public conduct, that are worthy of a gentleman or a man, are to sacrifice estate, ease, health, and applause, and even life, to the sacred calls of his country.

These manly sentiments, in private life, make the good citizens ; in public life, the patriot and the hero. I do not say that, when brought to the test, I shall be invincible. I pray God I may never be brought to the melancholy trial, but if ever I should, it will be then known how far I can reduce to practice principles which I know to be founded in truth. In the meantime I will proceed to the subject of this writ.

Your honors will find in the old books concerning the office of a justice of the peace, precedents of general warrants to search suspected houses. But in more modern books, you will find only special warrants to search such and such houses, specially named, in which the complainant has before sworn that he suspects his goods are concealed ; and will find it adjudged, that special warrants only are legal. In the same manner I rely on it, that the writ prayed for in this petition, being general, is illegal. It is a power that places the liberty of every man in the hands of every petty officer. I say I admit that special writs of assistance, to search special places, may be granted to certain persons on oath ; but I deny that the writ now prayed for can be granted, for I beg leave to make some observations on the writ itself, before I proceed to other acts of Parliament. In the first place, the writ is *universal*, being directed "to all and singular justices, sheriffs, constables, and all other officers and subjects" ; so that, in short, it is directed to every subject in the king's dominions. Every one with this writ may be a tyrant ; if this commission be legal, a tyrant in a legal manner, also, may control, imprison, or murder any

one within the realm. In the next place, it is *perpetual*, there is no return. A man is accountable to no person for his doings. Every man may reign secure in his petty tyranny, and spread terror and desolation around him, until the trump of the archangel shall excite different emotions in his soul. In the third place, a person with this writ, in the daytime, may enter all houses, shops, etc., at will, and command all to assist him. Fourthly, by this writ, not only deputies, etc., but even their menial servants, are allowed to lord it over us. What is this but to have the curse of Canaan with a witness on us; to be the servant of servants, the most despicable of God's creation? Now one of the most essential branches of English liberty is the freedom of one's house. A man's house is his castle; and whilst he is quiet, he is as well guarded as a prince in his castle. This writ, if it should be declared legal, would totally annihilate this privilege. Custom-house officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no

court can inquire. Bare suspicion without oath is sufficient. This wanton exercise of this power is not a chimerical suggestion of a heated brain. I will mention some facts. Mr. Pew had one of these writs, and when Mr. Ware succeeded him, he endorsed this writ over to Mr. Ware; so that these writs are negotiable from one officer to another; and so your honors have no opportunity of judging the persons to whom this vast power is delegated. Another instance is this: Mr. Justice Walley had called this same Mr. Ware before him, by a constable, to answer for a breach of the Sabbath-day acts, or that of profane swearing. As soon as he had finished, Mr. Ware asked him if he had done. He replied, "Yes." "Well then," said Mr. Ware, "I will show you a little of my power. I command you to permit me to search your house for uncustomed goods"; and went on to search the house from the garret to the cellar; and then served the constable in the same manner! But to show another absurdity in this writ: if it should be established, I insist upon it every person, by the 14th Charles Second, has this power as well as the custom-house officers. The words are: "it shall be lawful for any person or per-

sons authorized," etc. What a scene does this open ! Every man prompted by revenge, ill-humor, or wantonness to inspect the inside of his neighbor's house, may get a writ of assistance. Others will ask it from self-defence ; one arbitrary exertion will provoke another, until society be involved in tumult and in blood.'

PATRICK HENRY,*

OF VIRGINIA¹

(BORN 1736, DIED 1799).

CONVENTION OF DELEGATES, MARCH 28, 1775.²

MR. PRESIDENT:

No man thinks more highly than I do of the patriotism, as well as abilities, of the very worthy gentlemen who have just addressed the House.³ But different men often see the same subject in different lights; and, therefore, I hope that it will not be thought disrespectful to those gentlemen, if, entertaining as I do, opinions of a character very opposite to theirs, I shall speak forth my sentiments freely and without reserve. This is no time for ceremony. The question before the House is one of awful moment to this country. For my own part I consider it as nothing less than a question of freedom or slavery; and in proportion to the magnitude of the subject ought to be the freedom of the debate. It is only in this way that

* For notes on Henry see Appendix, p. 340.

we can hope to arrive at truth, and fulfil the great responsibility which we hold to God and our country. Should I keep back my opinions at such a time, through fear of giving offence, I should consider myself as guilty of treason toward my country, and of an act of disloyalty toward the majesty of heaven, which I revere above all earthly kings.

Mr. President, it is natural to man to indulge in the illusions of hope. We are apt to shut our eyes against a painful truth, and listen to the song of that syren, till she transforms us into beasts. Is this the part of wise men, engaged in a great and arduous struggle for liberty? Are we disposed to be of the number of those who, having eyes, see not, and having ears, hear not, the things which so nearly concern their temporal salvation? For my part, whatever anguish of spirit it may cost, I am willing to know the whole truth; to know the worst and to provide for it.

I have but one lamp by which my feet are guided; and that is the lamp of experience. I know of no way of judging of the future but by the past. And judging by the past, I wish to know what there has been in the conduct of the British ministry for the last ten years, to

justify those hopes with which gentlemen have been pleased to solace themselves and the House? Is it that insidious smile with which our petition has been lately received? Trust it not, sir; it will prove a snare to your feet. Suffer not yourselves to be betrayed with a kiss. Ask yourselves how this gracious reception of our petition comports with these warlike preparations which cover our waters and darken our land. Are fleets and armies necessary to a work of love and reconciliation? Have we shown ourselves so unwilling to be reconciled, that force must be called in to win back our love? Let us not deceive ourselves, sir. These are the implements of war and subjugation; the last arguments to which kings resort. ⁴ I ask gentlemen, sir, what means this martial array, if its purpose be not to force us to submission? Can gentlemen assign any other possible motives for it? Has Great Britain any enemy, in this quarter of the world, to call for all this accumulation of navies and armies? No, sir, she has none. They are meant for us; they can be meant for no other. They are sent over to bind and rivet upon us those chains which the British ministry have been so long forging. And what have we to

oppose to them? Shall we try argument? Sir, we have been trying that for the last ten years. Have we any thing new to offer on the subject? Nothing. We have held the subject up in every light of which it is capable; but it has been all in vain. Shall we resort to entreaty and humble supplication? What terms shall we find which have not been already exhausted? ¶ Let us not, I beseech you, sir, deceive ourselves longer. Sir, we have done every thing that could be done, to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, and have implored its interposition to arrest the tyrannical hands of the ministry and parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; and we have been spurned, with contempt, from the foot of the throne. In vain, after these things, may we indulge the fond hope of peace and reconciliation. There is no longer any room for hope. If we wish to be free—if we mean to preserve inviolate those inestimable privileges for which we have been so long contending—if

we mean not basely to abandon the noble struggle in which we have been so long engaged, and which we have pledged ourselves never to abandon until the glorious object of our contest shall be obtained, we must fight! I repeat it, sir, we must fight! An appeal to arms and to the God of Hosts is all that is left us!

They tell us, sir, that we are weak; unable to cope with so formidable an adversary. But when shall we be stronger? Will it be the next week, or the next year? Will it be when we are totally disarmed, and when a British guard shall be stationed in every house? Shall we gather strength by irresolution and inaction? Shall we acquire the means of effectual resistance, by lying supinely on our backs, and hugging the delusive phantom of hope, until our enemies shall have bound us hand and foot? Sir, we are not weak, if we make a proper use of the means which the God of nature hath placed in our power. Three millions of people, armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides

over the destinies of nations; and who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone; it is to the vigilant, the active, the brave. Besides, sir, we have no election. If we were base enough to desire it, it is now too late to retire from the contest. There is no retreat, but in submission and slavery! Our chains are forged! Their clanking may be heard on the plains of Boston! The war is inevitable—and let it come! I repeat it, sir, let it come!

It is in vain, sir, to extenuate the matter. Gentlemen may cry peace, peace—but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty, or give me death!⁴

SAMUEL ADAMS,*

OF MASSACHUSETTS

(BORN 1722, DIED 1803¹).

ON AMERICAN INDEPENDENCE.²—IN PHILADELPHIA,
AUGUST 1, 1776.

COUNTRYMEN AND BRETHREN: I would gladly have declined an honor, to which I find myself unequal. I have not the calmness and impartiality which the infinite importance of this occasion demands. I will not deny the charge of my enemies, that resentment for the accumulated injuries of our country, and an ardor for her glory, rising to enthusiasm, may deprive me of that accuracy of judgment and expression which men of cooler passions may possess. Let me beseech you then, to hear me with caution, to examine without prejudice, and to correct the mistakes into which I may be hurried by my zeal.

* For notes on Adams see Appendix, p. 344.

Truth loves an appeal to the common sense of mankind. Your unperverted understandings can best determine on subjects of a practical nature. The positions and plans which are said to be above the comprehension of the multitude may be always suspected to be visionary and fruitless. He who made all men hath made the truths necessary to human happiness obvious to all.

Our forefathers threw off the yoke of Popery in religion; for you is reserved the honor of levelling the Popery of politics. They opened the Bible to all, and maintained the capacity of every man to judge for himself in religion. Are we sufficient for the comprehension of the sublimest spiritual truths, and unequal to material and temporal ones? Heaven hath trusted us with the management of things for eternity, and man denies us ability to judge of the present, or to know from our feelings the experience that will make us happy. "You can discern," say they, "objects distant and remote, but cannot perceive those within your grasp. Let us have the distribution of present goods, and cut out and manage as you please the interests of futurity." This day, I trust, the reign of political protestantism will commence.

We have explored the temple of royalty, and found that the idol we have bowed down to, has eyes which see not, ears that hear not our prayers, and a heart like the nether millstone. We have this day restored the Sovereign, to whom alone men ought to be obedient. He reigns in heaven, and with a propitious eye beholds His subjects assuming that freedom of thought and dignity of self-direction which He bestowed on them. From the rising to the setting sun, may His kingdom come.

* * * * *

Men who content themselves with the semblance of truth, and a display of words, talk much of our obligations to Great Britain for protection. Had she a single eye to our advantage? A nation of shopkeepers are very seldom so disinterested.³ Let us not be so amused with words; the extension of her commerce was her object. When she defended our coasts, she fought for her customers, and convoyed our ships loaded with wealth, which we had acquired for her by our industry. She has treated us as beasts of burthen, whom the lordly masters cherish that they may carry a greater load. Let us inquire also against whom she has protected us? Against her own enemies

with whom we had no quarrel, or only on her account, and against whom we always readily exerted our wealth and strength when they were required. Were these colonies backward in giving assistance to Great Britain, when they were called upon in 1739, to aid the expedition against Carthagera? They at that time sent three thousand men to join the British army, although the war commenced without their consent. But the last war, 't is said, was purely American. This is a vulgar error, which, like many others, has gained credit by being confidently repeated. The dispute between the Courts of Great Britain and France, related to the limits of Canada and Nova Scotia. The controverted territory was not claimed by any in the colonies, but by the Crown of Great Britain. It was therefore their own quarrel. The infringement of a right which England had, by the treaty of Utrecht, of trading in the Indian country of Ohio, was another cause of the war. The French seized large quantities of British manufactures, and took possession of a fort which a company of British merchants and factors had erected for the security of their commerce. The war was therefore waged in defence of lands claimed by

the Crown, and for the protection of British property. The French at that time had no quarrel with America; and, as appears by letters sent from their commander-in-chief, to some of the colonies, wished to remain in peace with us. The part therefore which we then took, and the miseries to which we exposed ourselves, ought to be charged to our affection for Britain. These colonies granted more than their proportion to the support of the war. They raised, clothed, and maintained nearly twenty-five thousand men, and so sensible were the people of England of our great exertions, that a message was annually sent to the House of Commons purporting: "That his majesty, being highly satisfied of the zeal and vigor with which his faithful subjects in North America had exerted themselves in defence of his majesty's just rights and possessions, recommend it to the House, to take the same into consideration, and enable him to give them a proper compensation."

But what purpose can arguments of this kind answer? Did the protection we received annul our rights as men, and lay us under an obligation of being miserable?

Who among you, my countrymen, that is a

father, would claim authority to make your child a slave because you had nourished him in his infancy?

'Tis a strange species of generosity which requires a return infinitely more valuable than anything it could have bestowed; that demands as a reward for a defence of our property, a surrender of those inestimable privileges, to the arbitrary will of vindictive tyrants, which alone give value to that very property.

* * * * *

Courage, then, my countrymen! our contest is not only whether we ourselves shall be free, but whether there shall be left to mankind an asylum on earth, for civil and religious liberty? Dismissing, therefore, the justice of our cause as incontestable, the only question is, What is best for us to pursue in our present circumstances?

The doctrine of dependence on Great Britain is, I believe, generally exploded; but as I would attend to the honest weakness of the simplest of men, you will pardon me if I offer a few words on that subject.

We are now on this continent, to the astonishment of the world, three millions of souls united in one common cause. We have large armies, well disciplined and appointed, with

commanders inferior to none in military skill, and superior in activity and zeal. We are furnished with arsenals and stores beyond our most sanguine expectations, and foreign nations are waiting to crown our success by their alliances. There are instances of, I would say, an almost astonishing Providence in our favor; our success has staggered our enemies, and almost given faith to infidels; so that we may truly say it is not our own arm which has saved us.

The hand of Heaven appears to have led us on to be, perhaps, humble instruments and means in the great Providential dispensation which is completing. We have fled from the political Sodom; let us not look back, lest we perish and become a monument of infamy and derision to the world! For can we ever expect more unanimity and a better preparation for defence; more infatuation of counsel among our enemies, and more valor and zeal among ourselves? The same force and resistance which are sufficient to procure us our liberties, will secure us a glorious independence and support us in the dignity of free, imperial states. We can not suppose that our opposition has made a corrupt and dissipated nation more friendly

to America, or created in them a greater respect for the rights of mankind. We can therefore expect a restoration and establishment of our privileges, and a compensation for the injuries we have received from their want of power, from their fears, and not from their virtues. The unanimity and valor, which will effect an honorable peace, can render a future contest for our liberties unnecessary. He who has strength to chain down the wolf, is a madman if he lets him loose without drawing his teeth and paring his nails.

From the day on which an accommodation takes place between England and America, on any other terms than as independent states, I shall date the ruin of this country. A politic minister will study to lull us into security, by granting us the full extent of our petitions. The warm sunshine of influence would melt down the virtue, which the violence of the storm rendered more firm and unyielding. In a state of tranquillity, wealth, and luxury, our descendants would forget the arts of war, and the noble activity and zeal which made their ancestors invincible. Every art of corruption would be employed to loosen the bond of union which renders our resistance formidable. When

the spirit of liberty which now animates our hearts and gives success to our arms is extinct, our numbers will accelerate our ruin, and render us easier victims to tyranny. Ye abandoned minions of an infatuated ministry, if peradventure any should yet remain among us!—remember that a Warren and a Montgomery are numbered among the dead. Contemplate the mangled bodies of your countrymen, and then say, What should be the reward of such sacrifices? Bid us and our posterity bow the knee, supplicate the friendship, and plough, and sow, and reap, to glut the avarice of the men who have let loose on us the dogs of war to riot in our blood, and hunt us from the face of the earth? If ye love wealth better than liberty, the tranquillity of servitude than the animating contest of freedom—go from us in peace. We ask not your counsels or arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity, forget that ye were our countrymen.

To unite the Supremacy of Great Britain and the Liberty of America, is utterly impossible. So vast a continent and of such a distance from the seat of empire, will every day grow more unmanageable. The motion of so

unwieldy a body cannot be directed with any dispatch and uniformity, without committing to the Parliament of Great Britain, powers inconsistent with our freedom. The authority and force which would be absolutely necessary for the preservation of the peace and good order of this continent, would put all our valuable rights within the reach of that nation.

* * * * *

Some who would persuade us that they have tender feelings for future generations, while they are insensible to the happiness of the present, are perpetually foreboding a train of dissensions under our popular system. Such men's reasoning amounts to this—give up all that is valuable to Great Britain, and then you will have no inducements to quarrel among yourselves; or suffer yourselves to be chained down by your enemies, that you may not be able to fight with your friends.

This is an insult on your virtue as well as your common sense. Your unanimity this day and through the course of the war is a decisive refutation of such invidious predictions. Our enemies have already had evidence that our present constitution contains in it the justice and ardor of freedom, and the wisdom and

vigor of the most absolute system. When the law is the will of the people, it will be uniform and coherent; but fluctuation, contradiction, and inconsistency of councils must be expected under those governments where every revolution in the ministry of a court produces one in the state. Such being the folly and pride of all ministers, that they ever pursue measures directly opposite to those of their predecessors.

We shall neither be exposed to the necessary convulsions of elective Monarchies, nor to the want of wisdom, fortitude, and virtue, to which hereditary succession is liable. In your hands it will be to perpetuate a prudent, active, and just legislature, and which will never expire until you yourselves lose the virtues which give it existence.

And, brethren and fellow-countrymen, if it was ever granted to mortals to trace the designs of Providence, and interpret its manifestations in favor of their cause, we may, with humility of soul, cry out, "Not unto us, not unto us, but to thy Name be the praise." The confusion of the devices among our enemies, and the rage of the elements against them, have done almost as much towards our success as either our councils or our arms.

The time at which this attempt on our liberties was made, when we were ripened into maturity, had acquired a knowledge of war, and were free from the incursions of enemies in this country, the gradual advances of our oppressors enabling us to prepare for our defence, the unusual fertility of our lands and clemency of the seasons, the success which at first attended our feeble arms, producing unanimity among our friends and reducing our internal foes to acquiescence,—these are all strong and palpable marks and assurances, that Providence is yet gracious unto Zion, that it will turn away the captivity of Jacob.

We have now no other alternative than independence, or the most ignominious and galling servitude. The legions of our enemies thicken on our plains; desolation and death mark their bloody career; whilst the mangled corpses of our countrymen seem to cry out to us as a voice from heaven: “Will you permit our posterity to groan under the galling chains of our murderers? Has our blood been expended in vain? Is the only reward which our constancy, till death, has obtained for our country, that it should be sunk into a deeper and more ignominious vassalage? Recollect who are the men

that demand your submission ; to whose decrees you are invited to pay obedience ! Men who, unmindful of their relation to you as brethren, of your long implicit submission to their laws ; of the sacrifice which you and your forefathers made of your natural advantages for commerce to their avarice,—formed a deliberate plan to wrest from you the small pittance of property which they had permitted you to acquire. Remember that the men who wish to rule over you are they who, in pursuit of this plan of despotism, annulled the sacred contracts which had been made with your ancestors ; conveyed into your cities a mercenary soldiery to compel you to submission by insult and murder—who called your patience, cowardice ; your piety, hypocrisy.”

Countrymen ! the men who now invite you to surrender your rights into their hands are the men who have let loose the merciless savages to riot in the blood of their brethren—who have dared to establish popery triumphant in our land—who have taught treachery to your slaves, and courted them to assassinate your wives and children.

These are the men to whom we are exhorted to sacrifice the blessings which Providence

holds out to us—the happiness, the dignity of uncontrolled freedom and independence.

Let not your generous indignation be directed against any among us who may advise so absurd and madd'ning a measure. Their number is but few and daily decreased; and the spirit which can render them patient of slavery, will render them contemptible enemies.

Our Union is now complete; our Constitution^b composed, established, and approved. You are now the guardians of your own liberties. We may justly address you, as the Decemviri did the Romans, and say: “Nothing that we propose, can pass into a law without your consent. Be yourselves, O Americans, the authors of those laws on which your happiness depends.”

You have now, in the field, armies sufficient to repel the whole force of your enemies, and their base and mercenary auxiliaries. The hearts of your soldiers beat high with the spirit of freedom—they are animated with the justice of their cause, and while they grasp their swords, can look up to Heaven for assistance. Your adversaries are composed of wretches who laugh at the rights of humanity, who turn religion into derision, and would, for

higher wages, direct their swords against their leaders or their country. Go on, then, in your generous enterprise, with gratitude to Heaven for past success, and confidence of it in the future. For my own part, I ask no greater blessing than to share with you the common danger and common glory. If I have a wish dearer to my soul, than that my ashes may be mingled with those of a Warren and a Montgomery, it is—that these American States may never cease to be free and independent ! *

ALEXANDER HAMILTON,*

OF NEW YORK¹

(BORN 1757, DIED 1804).

ON THE EXPEDIENCY OF ADOPTING THE FEDERAL
CONSTITUTION—CONVENTION OF NEW YORK,
JUNE 24, 1788.²

I AM persuaded, Mr. Chairman, that I in my turn shall be indulged, in addressing the committee. We all, in equal sincerity, profess to be anxious for the establishment of a republican government, on a safe and solid basis.* It is the object of the wishes of every honest man in the United States, and I presume that I shall not be disbelieved, when I declare, that it is an object of all others, the nearest and most dear to my own heart. The means of accomplishing this great purpose become the most important study which can interest mankind. It is our duty to examine all those means with peculiar attention, and to choose the best and most effectual. It is our duty to draw from nature,

* For notes on Hamilton see Appendix, p. 346.

from reason, from examples, the best principles of policy, and to pursue and apply them in the formation of our government. We should contemplate and compare the systems, which, in this examination, come under our view ; distinguish, with a careful eye, the defects and excellencies of each, and discarding the former, incorporate the latter, as far as circumstances will admit, into our Constitution. If we pursue a different course and neglect this duty, we shall probably disappoint the expectations of our country and of the world.

In the commencement of a revolution, which received its birth from the usurpations of tyranny, nothing was more natural, than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention. But, sir, there is another object equally important, and which our

enthusiasm rendered us little capable of regarding: I mean a principle of strength and stability in the organization of our government, and vigor in its operations. This purpose can never be accomplished but by the establishment of some select body, formed peculiarly upon this principle. There are few positions more demonstrable than that there should be in every republic, some permanent body to correct the prejudices, check the intemperate passions, and regulate the fluctuations of a popular assembly. It is evident, that a body instituted for these purposes, must be so formed as to exclude as much as possible from its own character, those infirmities and that mutability which it is designed to remedy. It is therefore necessary that it should be small, that it should hold its authority during a considerable period, and that it should have such an independence in the exercise of its powers, as will divest it as much as possible of local prejudices. It should be so formed as to be the centre of political knowledge, to pursue always a steady line of conduct, and to reduce every irregular propensity to system. Without this establishment, we may make experiments without end, but shall never have an efficient government.

It is an unquestionable truth, that the body of the people in every country desire sincerely its prosperity; but it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government. To deny that they are frequently led into the grossest errors by misinformation and passion, would be a flattery which their own good sense must despise. That branch of administration especially, which involves our political relations with foreign states, a community will ever be incompetent to. These truths are not often held up in public assemblies: but they cannot be unknown to any who hear me. From these principles it follows, that there ought to be two distinct bodies in our government: one, which shall be immediately constituted by and peculiarly represent the people, and possess all the popular features; another, formed upon the principle, and for the purposes, before explained. Such considerations as these induced the convention who formed your State constitution, to institute a Senate upon the present plan. The history of ancient and modern republics had taught them, that many of the evils which these republics had suffered, arose from the want of a certain balance and mutual

control indispensable to a wise administration ; they were convinced that popular assemblies are frequently misguided by ignorance, by sudden impulses, and the intrigues of ambitious men ; and that some firm barrier against these operations was necessary ; they, therefore, instituted your Senate, and the benefits we have experienced have fully justified their conceptions. * * *

Gentlemen, in their reasoning, have placed the interests of the several States, and those of the United States in contrast ; this is not a fair view of the subject ; they must necessarily be involved in each other. What we apprehend is, that some sinister prejudice, or some prevailing passion, may assume the form of a genuine interest. The influence of these is as powerful as the most permanent conviction of the public good ; and against this influence we ought to provide. The local interests of a State ought in every case to give way to the interests of the Union ; for when a sacrifice of one or the other is necessary, the former becomes only an apparent, partial interest, and should yield, on the principle that the small good ought never to oppose the great one. When you assemble from your several counties

in the Legislature, were every member to be guided only by the apparent interests of his county, government would be impracticable. There must be a perpetual accommodation and sacrifice of local advantages to general expediency; but the spirit of a mere popular assembly would rarely be actuated by this important principle. It is therefore absolutely necessary that the Senate should be so formed, as to be unbiassed by false conceptions of the real interests, or undue attachment to the apparent good of their several States.

Gentlemen indulge too many unreasonable apprehensions of danger to the State governments; they seem to suppose that the moment you put men into a national council, they become corrupt and tyrannical, and lose all their affection for their fellow-citizens. But can we imagine that the Senators will ever be so insensible of their own advantage, as to sacrifice the genuine interest of their constituents? The State governments are essentially necessary to the form and spirit of the general system. As long, therefore, as Congress has a full conviction of this necessity, they must, even upon principles purely national, have as firm an attachment to the one as to the other. This

conviction can never leave them, unless they become madmen. While the constitution continues to be read, and its principle known, the States must, by every rational man, be considered as essential, component parts of The Union ; and therefore the idea of sacrificing the former to the latter is wholly inadmissible.

The objectors do not advert to the natural strength and resources of State governments, which will ever give them an important superiority over the general government. If we compare the nature of their different powers, or the means of popular influence which each possesses, we shall find the advantage entirely on the side of the States. This consideration, important as it is, seems to have been little attended to. The aggregate number of representatives throughout the States may be two thousand. Their personal influence will, therefore, be proportionably more extensive than that of one or two hundred men in Congress. The State establishments of civil and military officers of every description, infinitely surpassing in number any possible correspondent establishments in the general government, will create such an extent and complication of attachments, as will ever secure the predilection

and support of the people. Whenever, therefore, Congress shall meditate any infringement of the State constitutions, the great body of the people will naturally take part with their domestic representatives. Can the general government withstand such an united opposition? Will the people suffer themselves to be stripped of their privileges? Will they suffer their Legislatures to be reduced to a shadow and a name? The idea is shocking to common-sense.

From the circumstances already explained, and many others which might be mentioned, results a complicated, irresistible check, which must ever support the existence and importance of the State governments. The danger, if any exists, flows from an opposite source. The probable evil is, that the general government will be too dependent on the State Legislatures, too much governed by their prejudices, and too obsequious to their humors; that the States, with every power in their hands, will make encroachments on the national authority, till the Union is weakened and dissolved.

Every member must have been struck with an observation of a gentleman from Albany. Do what you will, says he, local prejudices and opinions will go into the government.

What! shall we then form a constitution to cherish and strengthen these prejudices? Shall we confirm the distemper, instead of remedying it. It is undeniable that there must be a control somewhere. Either the general interest is to control the particular interests, or the contrary. If the former, then certainly the government ought to be so framed, as to render the power of control efficient to all intents and purposes; if the latter, a striking absurdity follows; the controlling powers must be as numerous as the varying interests, and the operations of the government must therefore cease; for the moment you accommodate these different interests, which is the only way to set the government in motion, you establish a controlling power. Thus, whatever constitutional provisions are made to the contrary, every government will be at last driven to the necessity of subjecting the partial to the universal interest. The gentlemen ought always, in their reasoning, to distinguish between the real, genuine good of a State, and the opinions and prejudices which may prevail respecting it; the latter may be opposed to the general good, and consequently ought to be sacrificed; the former is so involved in it, that it never can be sacrificed.

There are certain social principles in human nature from which we may draw the most solid conclusions with respect to the conduct of individuals and of communities. We love our families more than our neighbors; we love our neighbors more than our countrymen in general. The human affections, like the solar heat, lose their intensity as they depart from the centre, and become languid in proportion to the expansion of the circle on which they act. On these principles, the attachment of the individual will be first and forever secured by the State governments; they will be a mutual protection and support. Another source of influence, which has already been pointed out, is the various official connections in the States. Gentlemen endeavor to evade the force of this by saying that these offices will be insignificant. This is by no means true. The State officers will ever be important, because they are necessary and useful. Their powers are such as are extremely interesting to the people; such as affect their property, their liberty, and life. What is more important than the administration of justice and the execution of the civil and criminal laws? Can the State governments become insignificant while they have

the power of raising money independently and without control? If they are really useful; if they are calculated to promote the essential interests of the people; they must have their confidence and support. The States can never lose their powers till the whole people of America are robbed of their liberties. These must go together; they must support each other, or meet one common fate. On the gentleman's principle, we may safely trust the State governments, though we have no means of resisting them; but we cannot confide in the national government, though we have an effectual constitutional guard against every encroachment. This is the essence of their argument, and it is false and fallacious beyond conception.

With regard to the jurisdiction of the two governments, I shall certainly admit that the Constitution ought to be so formed as not to prevent the States from providing for their own existence; and I maintain that it is so formed; and that their power of providing for themselves is sufficiently established. This is conceded by one gentleman, and in the next breath the concession is retracted. He says Congress has but one exclusive right in taxa-

tion—that of duties on imports; certainly, then, their other powers are only concurrent. But to take off the force of this obvious conclusion, he immediately says that the laws of the United States are supreme; and that where there is one supreme there cannot be a concurrent authority; and further, that where the laws of the Union are supreme, those of the States must be subordinate; because there cannot be two supremes. This is curious sophistry. That two supreme powers cannot act together is false. They are inconsistent only when they are aimed at each other or at one indivisible object. The laws of the United States are supreme, as to all their proper, constitutional objects; the laws of the States are supreme in the same way.⁴ These supreme laws may act on different objects without clashing; or they may operate on different parts of the same common object with perfect harmony. Suppose both governments should lay a tax of a penny on a certain article; has not each an independent and uncontrollable power to collect its own tax? The meaning of the maxim, there cannot be two supremes, is simply this—two powers cannot be supreme over each other. This meaning is entirely perverted by the gen-

tllemen. But, it is said, disputes between collectors are to be referred to the federal courts. This is again wandering in the field of conjecture. But suppose the fact is certain; is it not to be presumed that they will express the true meaning of the Constitution and the laws? Will they not be bound to consider the concurrent jurisdiction; to declare that both the taxes shall have equal operation; that both the powers, in that respect, are sovereign and co-extensive? If they transgress their duty, we are to hope that they will be punished. Sir, we can reason from probabilities alone. When we leave common-sense, and give ourselves up to conjecture, there can be no certainty, no security in our reasonings.

I imagine I have stated to the committee abundant reasons to prove the entire safety of the State governments and of the people. I would go into a more minute consideration of the nature of the concurrent jurisdiction, and the operation of the laws in relation to revenue; but at present I feel too much indisposed to proceed. I shall, with leave of the committee, improve another opportunity of expressing to them more fully my ideas on this point. I wish the committee to remember that the Con-

stitution under examination is framed upon truly republican principles; and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this Constitution to subvert the State governments or oppress the people.*

JAMES MADISON,*

OF VIRGINIA¹

(BORN 1751, DIED 1836).

ON THE EXPEDIENCY OF ADOPTING THE FEDERAL
CONSTITUTION—CONVENTION OF VIRGINIA,
JUNE 6, 1788.²

MR. CHAIRMAN :

In what I am about to offer to this assembly, I shall not attempt to make impressions by any ardent professions of zeal for the public welfare. We know that the principles of every man will be, and ought to be, judged not by his professions and declarations, but by his conduct. By that criterion, I wish, in common with every other member, to be judged; and even though it should prove unfavorable to my reputation, yet it is a criterion from which I by no means would depart, nor could if I would. Comparisons have been made between

* For notes on Madison see Appendix, p. 350.

the friends of this constitution and those who oppose it. Although I disapprove of such comparisons, I trust that in everything that regards truth, honor, candor, and rectitude of motives, the friends of this system, here and in other States, are not inferior to its opponents. But professions of attachment to the public good, and comparisons of parties, at all times invidious, ought not to govern or influence us now. We ought, sir, to examine the Constitution exclusively on its own merits. We ought to inquire whether it will promote the public happiness; and its aptitude to produce that desirable object ought to be the exclusive subject of our researches. In this pursuit, we ought to address our arguments not to the feelings and passions, but to those understandings and judgments which have been selected, by the people of this country, to decide that great question by a calm and rational investigation. I hope that gentlemen, in displaying their abilities on this occasion, will, instead of giving opinions and making assertions, condescend to prove and demonstrate, by fair and regular discussion. It gives me pain to hear gentlemen continually distorting the natural construction of language. Assuredly, it is

sufficient if any human production can stand a fair discussion. Before I proceed to make some additions to the reasons which have been adduced by my honorable friend over the way, I must take the liberty to make some observations on what was said by another gentleman (Mr. Henry). He told us that this constitution ought to be rejected, because, in his opinion, it endangered the public liberty in many instances. Give me leave to make one answer to that observation—let the dangers with which this system is supposed to be replete, be clearly pointed out. If any dangerous and unnecessary powers be given to the general legislature, let them be plainly demonstrated, and let us not rest satisfied with general assertions of dangers, without proof, without examination. If powers be necessary, apparent danger is not a sufficient reason against conceding them. He has suggested, that licentiousness has seldom produced the loss of liberty; but that the tyranny of rulers has almost always effected it. Since the general civilization of mankind, I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpations; but

on a candid examination of history, we shall find that turbulence, violence, and abuse of power, by the majority trampling on the rights of the minority, have produced factions and commotions which, in republics, have, more frequently than any other cause, produced despotism. If we go over the whole history of ancient and modern republics, we shall find their destruction to have generally resulted from those causes. If we consider the peculiar situation of the United States, and go to the sources of that diversity of sentiment which pervades its inhabitants, we shall find great danger to fear that the same causes may terminate here in the same fatal effects which they produced in those republics. This danger ought to be wisely guarded against. In the progress of this discussion, it will perhaps appear, that the only possible remedy for those evils, and the only certain means of preserving and protecting the principles of republicanism, will be found in that very system which is now exclaimed against as the parent of oppression. I must confess that I have not been able to find his usual consistency in the gentleman's arguments on this occasion. He informs us that the people of this country are at perfect

repose; that every man enjoys the fruits of his labor peaceably and securely, and that everything is in perfect tranquillity and safety. I wish sincerely, sir, this were true. But if this be really their situation, why has every State acknowledged the contrary? Why were deputies from all the States sent to the general convention? Why have complaints of national and individual distresses been echoed and re-echoed throughout the continent? Why has our general government been so shamefully disgraced, and our Constitution violated? Wherefore have laws been made to authorize a change, and wherefore are we now assembled here? A federal government is formed for the protection of its individual members. Ours was itself attacked with impunity. Its authority has been boldly disobeyed and openly despised. I think I perceive a glaring inconsistency in another of his arguments. He complains of this Constitution, because it requires the consent of at least three fourths of the States to introduce amendments which shall be necessary for the happiness of the people. The assent of so many, he considers as too great an obstacle to the admission of salutary amendments, which he strongly in-

sists ought to be at the will of a bare majority, and we hear this argument at the very moment we are called upon to assign reasons for proposing a Constitution which puts it in the power of nine States to abolish the present inadequate, unsafe, and pernicious confederation ! In the first case, he asserts that a majority ought to have the power of altering the government, when found to be inadequate to the security of public happiness. In the last case, he affirms that even three fourths of the community have not a right to alter a government which experience has proved to be subversive of national felicity ; nay, that the most necessary and urgent alterations cannot be made without the absolute unanimity of all the States. Does not the thirteenth article of the confederation expressly require, that no alteration shall be made without the unanimous consent of all the States ? Can any thing in theory be more perniciously improvident and injudicious than this submission of the will of the majority to the most trifling minority ? Have not experience and practice actually manifested this theoretical inconvenience to be extremely impolitic ? Let me mention one fact, which I conceive must carry conviction

to the mind of any one,—the smallest State in the Union has obstructed every attempt to reform the government; that little member has repeatedly disobeyed and counteracted the general authority; nay, has even supplied the enemies of its country with provisions. Twelve States had agreed to certain improvements which were proposed, being thought absolutely necessary to preserve the existence of the general government; but as these improvements, though really indispensable, could not, by the confederation, be introduced into it without the consent of every State, the refractory dissent of that little State prevented their adoption. The inconveniences resulting from this requisition of unanimous concurrence in alterations of the confederation, must be known to every member in this convention; it is therefore needless to remind them of them. Is it not self-evident, that a trifling minority ought not to bind the majority? Would not foreign influence be exerted with facility over a small minority? Would the honorable gentleman agree to continue the most radical defects in the old system, because the petty State of Rhode Island would not agree to remove them?'

He next objects to the exclusive legislation over the district where the seat of the government may be fixed. Would he submit that the representatives of this State should carry on their deliberations under the control of any one member of the Union? If any State had the power of legislation over the place where Congress should fix the general government, it would impair the dignity and hazard the safety of Congress. If the safety of the Union were under the control of any particular State, would not foreign corruption probably prevail in such a State, to induce it to exert its controlling influence over the members of the general government? Gentlemen cannot have forgotten the disgraceful insult which Congress received some years ago.⁴ And, sir, when we also reflect, that the previous cession of particular States is necessary, before Congress can legislate exclusively anywhere, we must, instead of being alarmed at this part, heartily approve of it.

But the honorable member sees great danger in the provision concerning the militia. Now, sir, this I conceive to be an additional security to our liberties, without diminishing the power of the States in any considerable degree; it

appears to me so highly expedient, that I should imagine it would have found advocates even in the warmest friends of the present system. The authority of training the militia and appointing the officers is reserved to the States. But Congress ought to have the power of establishing a uniform system of discipline throughout the States; and to provide for the execution of the laws, suppress insurrections, and repel invasions. These are the only cases wherein they can interfere with the militia; and the obvious necessity of their having power over them in these cases must flash conviction on any reflecting mind. Without uniformity of discipline, military bodies would be incapable of action; without a general controlling power to call forth the strength of the Union, for the purpose of repelling invasions, the country might be overrun and conquered by foreign enemies. Without such a power to suppress insurrections, our liberties might be destroyed by intestine faction, and domestic tyranny be established. * * *

Give me leave to say something of the nature of the government, and to show that it is perfectly safe and just to vest it with the power of taxation. There are a number of opinions;

but the principal question is, whether it be a federal or a consolidated government. In order to judge properly of the question before us, we must consider it minutely, in its principal parts. I myself conceive that it is of a mixed nature; it is, in a manner, unprecedented. We cannot find one express prototype in the experience of the world: it stands by itself. In some respects, it is a government of a federal nature; in others, it is of a consolidated nature.⁶ Even if we attend to the manner in which the Constitution is investigated, ratified, and made the act of the people of America, I can say, notwithstanding what the honorable gentleman has alleged, that this government is not completely consolidated; nor is it entirely federal. Who are the parties to it? The people—not the people as composing one great body, but the people as composing thirteen sovereignties. Were it, as the gentleman asserts, a consolidated government, the assent of a majority of the people would be sufficient for its establishment, and as a majority have adopted it already, the remaining States would be bound by the act of the majority, even if they unanimously reprobated it. Were it such a government as is suggested, it would be now binding on the

people of this State, without having had the privilege of deliberating upon it; but, sir, no State is bound by it, as it is, without its own consent. Should all the States adopt it, it will be then a government established by the thirteen States of America, not through the intervention of the legislatures, but by the people at large. In this particular respect, the distinction between the existing and proposed governments is very material. The existing system has been derived from the dependent, derivative authority of the legislatures of the States; whereas this is derived from the superior power of the people. If we look at the manner in which alterations are to be made in it, the same idea is in some degree attended to. By the new system, a majority of the States cannot introduce amendments; nor are all the States required for that purpose; three fourths of them must concur in alterations; in this there is a departure from the federal idea. The members to the national House of Representatives are to be chosen by the people at large, in proportion to the numbers in the respective districts. When we come to the Senate, its members are elected by the States in their equal and political capacity; but had

the government been completely consolidated, the Senate would have been chosen by the people, in their individual capacity, in the same manner as the members of the other House. Thus it is of complicated nature, and this complication, I trust, will be found to exclude the evils of absolute consolidation, as well as of a mere confederacy. If Virginia were separated from all the States, her power and authority would extend to all cases; in like manner, were all powers vested in the general government, it would be a consolidated government; but the powers of the federal government are enumerated; it can only operate in certain cases: it has legislative powers on defined and limited objects, beyond which it cannot extend its jurisdiction.

But the honorable member has satirized, with peculiar acrimony, the powers given to the general government by this Constitution. I conceive that the first question on this subject is, whether these powers be necessary; if they be, we are reduced to the dilemma of either submitting to the inconvenience, or losing the Union. Let us consider the most important of these reprobated powers; that of direct taxation is most generally objected to. With

respect to the exigencies of government, there is no question but the most easy mode of providing for them will be adopted. When, therefore, direct taxes are not necessary, they will not be resorted to. It can be of little advantage to those in power, to raise money in a manner oppressive to the people. To consult the conveniences of the people, will cost them nothing, and in many respects will be advantageous to them. Direct taxes will only be resorted to for great purposes. What has brought on other nations those immense debts, under the pressure of which many of them labor? Not the expenses of their governments, but war. If this country should be engaged in war, (and I conceive we ought to provide for the possibility of such a case,) how would it be carried on? By the usual means provided from year to year? As our imports will be necessary for the expenses of government, and other common exigencies, how are we to carry on the means of defence? How is it possible a war could be supported without money or credit? And would it be possible for government to have credit, without having the power of raising money? No, it would be impossible for any government, in such a case,

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to defend itself. Then, I say, sir, that it is necessary to establish funds for extraordinary exigencies, and give this power to the general government; for the utter inutility of previous requisitions on the States is too well known. Would it be possible for those countries, whose finances and revenues are carried to the highest perfection, to carry on the operations of government on great emergencies, such as the maintenance of a war, without an uncontrolled power of raising money? Has it not been necessary for Great Britain, notwithstanding the facility of the collection of her taxes, to have recourse very often to this and other extraordinary methods of procuring money? Would not her public credit have been ruined, if it was known that her power to raise money was limited? Has not France been obliged, on great occasions, to recur to unusual means, in order to raise funds? It has been the case in many countries, and no government can exist unless its powers extend to make provisions for every contingency. If we were actually attacked by a powerful nation, and our general government had not the power of raising money, but depended solely on requisitions, our condition would be truly deplorable: if

the revenues of this commonwealth were to depend on twenty distinct authorities, it would be impossible for it to carry on its operations. This must be obvious to every member here : I think, therefore, that it is necessary for the preservation of the Union, that this power should be given to the general government.

But it is urged, that its consolidated nature, joined to the power of direct taxation, will give it a tendency to destroy all subordinate authority ; that its increasing influence will speedily enable it to absorb the State governments. I cannot bring myself to think that this will be the case. If the general government were wholly independent of the governments of the particular States, then indeed, usurpation might be expected to the fullest extent : but, sir, on whom does this general government depend ? It derives its authority from these governments, and from the same sources from which their authority is derived. The members of the federal government are taken from the same men from whom those of the State legislatures are taken. If we consider the mode in which the federal representatives will be chosen, we shall be convinced, that the general never will destroy the individual governments ; and

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this conviction must be strengthened by an attention to the construction of the Senate. The representatives will be chosen, probably under the influence of the State legislatures: but there is not the least probability that the election of the latter will be influenced by the former. One hundred and sixty members representing this commonwealth in one branch of the legislature, are drawn from the people at large, and must ever possess more influence than the few men who will be elected to the general legislature. Those who wish to become federal representatives, must depend on their credit with that class of men who will be the most popular in their counties, who generally represent the people in the State governments: they can, therefore, never succeed in any measure contrary to the wishes of those on whom they depend. So that, on the whole, it is almost certain that the deliberations of the members of the federal House of Representatives will be directed to the interests of the people of America. As to the other branch, the Senators will be appointed by the legislatures, and, though elected for six years, I do not conceive they will so soon forget the source whence they derive their political exist-

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ence. This election of one branch of the federal, by the State legislatures, secures an absolute independence of the former on the latter. The biennial exclusion of one third will lessen the facility of a combination, and preclude all likelihood of intrigues. I appeal to our past experience, whether they will attend to the interests of their constituent States. Have not those gentlemen who have been honored with seats in Congress often signalized themselves by their attachment to their States? Sir, I pledge myself that this government will answer the expectations of its friends, and foil the apprehensions of its enemies. I am persuaded that the patriotism of the people will continue, and be a sufficient guard to their liberties, and that the tendency of the Constitution will be, that the State governments will counteract the general interest, and ultimately prevail. The number of the representatives is yet sufficient for our safety, and will gradually increase; and if we consider their different sources of information, the number will not appear too small.

Sir, that part of the proposed Constitution which gives the general government the power of laying and collecting taxes, is indispensable

and essential to the existence of any efficient, or well organized system of government: if we consult reason, and be ruled by its dictates, we shall find its justification there: if we review the experience we have had, or contemplate the history of nations, there too we shall find ample reasons to prove its expediency. It would be preposterous to depend for necessary supplies on a body which is fully possessed of the power of withholding them. If a government depends on other governments for its revenues; if it must depend on the voluntary contributions of its members, its existence must be precarious. A government that relies on thirteen independent sovereignties for the means of its existence, is a solecism in theory, and a mere nullity in practice. Is it consistent with reason, that such a government can promote the happiness of any people? It is subversive of every principle of sound policy, to trust the safety of a community with a government totally destitute of the means of protecting itself or its members. Can Congress, after the repeated unequivocal proofs it has experienced of the utter inutility and inefficacy of requisitions, reasonably expect that they would be hereafter effectual or productive?

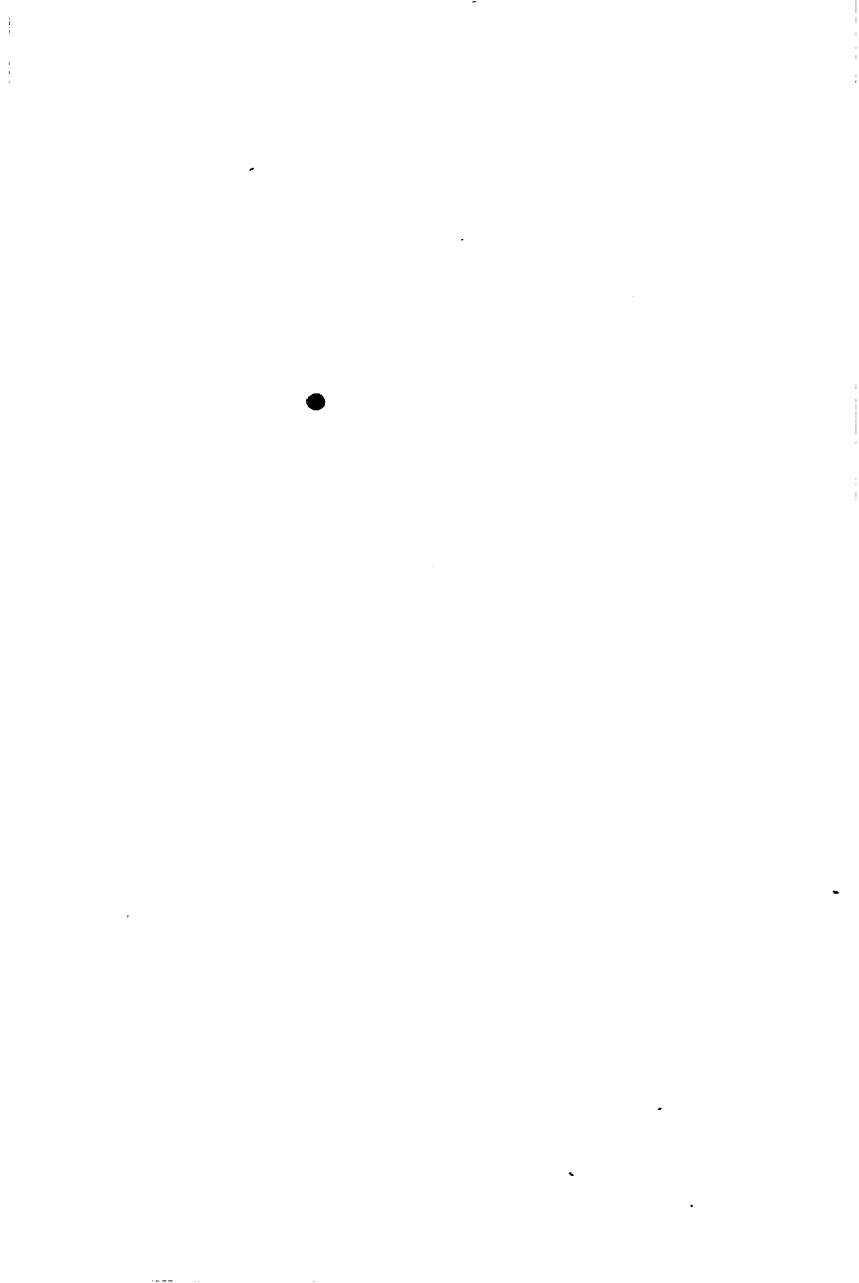
Will not the same local interests, and other causes, militate against a compliance? Whoever hopes the contrary must for ever be disappointed. The effect, sir, cannot be changed without a removal of the cause. Let each county in this commonwealth be supposed free and independent: let your revenues depend on requisitions of proportionate quotas from them: let application be made to them repeatedly, and then ask yourself, is it to be presumed that they would comply, or that an adequate collection could be made from partial compliances? It is now difficult to collect the taxes from them: how much would that difficulty be enhanced, were you to depend solely on their generosity? I appeal to the reason of every gentleman here, and to his candor, to say whether he is not persuaded that the present confederation is as feeble as the government of Virginia would be in that case; to the same reason I appeal, whether it be compatible with prudence to continue a government of such manifest and palpable weakness and inefficiency.

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II.

CONSTITUTIONAL GOVERNMENT.



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CONSTITUTIONAL government in the United States began, in its national phase, with the inauguration of Washington, but the experiment was for a long time a doubtful one. Of the two parties, the federal and the anti-federal parties, which had faced one another on the question of the adoption of the Constitution, the latter had disappeared. Its conspicuous failure to achieve the fundamental object of its existence, and the evident hopelessness of reversing its failure in future, blotted it out of existence. There was left but one party, the federal party; and it, strong as it appeared, was really in almost as precarious a position as its former opponent, because of the very completeness of its success in achieving its fundamental object. Hamilton and Jefferson, two

of its representative members, were opposed in almost all the political instincts of their natures; the former chose the restraints of strong government as instinctively as the latter clung to individualism. They had been accidentally united for the time in desiring the adoption of the Constitution, though Hamilton considered it only a temporary shift for something stronger, while Jefferson wished for a bill of rights to weaken the force of some of its implications. Now that the Constitution was ratified, what tie was there to hold these two to any united action for the future? Nothing but a shadow—the name of a party not yet two years old. As soon, therefore, as the federal party fairly entered upon a secure tenure of power, the divergent instincts of the two classes represented by Hamilton and Jefferson began to show themselves more distinctly until there was no longer any pretence of party unity, and the democratic (or republican) party assumed its place, in 1792–3, as the recognized opponent of the party in power. It would be beside the purpose to

attempt to enumerate the points in which the natural antagonism of the federalists and the republicans came to the surface during the decade of contest which ended in the downfall of the federal party in 1800-1. In all of them, in the struggles over the establishment of the Bank of the United States and the assumption of the State debts, in the respective sympathy for France and Great Britain, in the strong federalist legislation forced through during the war feeling against France in 1798, the controlling sympathy of the republicans for individualism and of the federalists for a strong national government is constantly visible, if looked for. The difficulty is that these permanent features are often so obscured by the temporary media in which they appear that the republicans are likely to be taken as a merely State-rights party, and the federalists as a merely commercial party.

To adopt either of these notions would be to take a very erroneous idea of American political history. The whole policy of the republi-

cans was to forward the freedom of the individual; their leader seems to have made all other points subordinate to this. There is hardly any point in which the action of the individual American has been freed from governmental restraints, from ecclesiastical government, from sumptuary laws, from restrictions on suffrage, from restrictions on commerce, production, and exchange, for which he is not indebted in some measure to the work and teaching of Jefferson between the years of 1790 and 1800. He and his party found the States in existence, understood well that they were convenient shields for the individual against the possible powers of the new federal government for evil, and made use of them. The State sovereignty of Jefferson was the product of individualism; that of Calhoun was the product of sectionalism.

On the other hand, if Jeffersonian democracy was the representative of all the individualistic tendencies of the later science of political economy, Hamiltonian federalism represented the

necessary corrective force of law. It was in many respects a strong survival of colonialism. Together with some of the evil features of colonialism, its imperative demands for submission to class government, its respect for the interests and desires of the few, and its contempt for those of the many, it had brought into American constitutional life a very high ratio of that respect for law which alone can render the happiness and usefulness of the individual a permanent and secure possession. It was impossible for federalism to resist the individualistic tendency of the country for any length of time; it is the monument of the party that it secured, before it fell, abiding guaranties for the security of the individual under freedom.

The genius of the federalists was largely practical. It was shown in their masterly organization of the federal government when it was first entrusted to their hands, an organization which has since been rather developed than disturbed in any of its parts. But the details

of the work absorbed the attention of the leaders so completely that it would be impossible to fix on any public address as entirely representative of the party. Fisher Ames' speech on the Jay treaty, which was considered by the federalists the most effective piece of oratory in their party history, has been taken as a substitute. The question was to the federalists partly of commercial and partly of national importance. John Jay had secured the first commercial treaty with Great Britain in 1795. It not only provided for the security of American commerce during the European wars to which Great Britain was a party, and obtained the surrender of the military posts in the present States of Ohio and Michigan; it also gave the United States a standing in the family of nations which it was difficult to claim elsewhere while Great Britain continued to refuse to treat on terms of equality. The Senate therefore ratified the treaty, and it was constitutionally complete. The democratic majority in the House of Representatives, ob-

jecting to the treaty as a surrender of previous engagements with France, and as a failure to secure the rights of individuals against Great Britain, particularly in the matter of impressment, raised the point that the House was not bound to vote money for carrying into effect a treaty with which it was seriously dissatisfied. The speech of Gallatin has been selected to represent the republican view. It is a strong reflection of the opposition to the Treaty. The reply of Ames is a forcible presentation of both the national and the commercial aspects of his party; it had a very great influence in securing, though by a very narrow majority, the vote of the House in favor of the appropriation.

There is some difficulty in fixing on any completely representative oration to represent the republican point of view covering this period. Gallatin's speech on the Jay Treaty together with Nicholas' argument for the repeal of the sedition law may serve this purpose. The speech of Nicholas shows the instinctive sympathy of the party for the individual rather than for the government. It

shows the force with which this sympathy drove the party into a strict construction of the Constitution. It seems also to bear the strongest internal indications that it was inspired, if not entirely written, by the great leader of the party, Jefferson. The federalists had used the popular war feeling against France in 1798, not only to press the formation of an army and a navy and the abrogation of the old and troublesome treaties with France, but to pass the alien and sedition laws as well. The former empowered the President to expel from the country or imprison any alien whom he should consider dangerous to the peace and safety of the United States. The latter forbade, under penalty of fine and imprisonment, the printing or publishing of any "false, scandalous, or malicious writings" calculated to bring the Government, Congress, or the President into disrepute, or to excite against them the hatred of the good people of the United States, or to stir up sedition. It was inevitable that the republicans should oppose such laws, and that the people should support them in their oppo-

sition. At the election of 1800, the federal party was overthrown, and the lost ground was never regained. With Jefferson's election to the presidency, began the democratic period of the United States; but it has always been colored strongly and naturally by the federal bias toward law and order.

ALBERT GALLATIN,*

OF PENNSYLVANIA.¹

(BORN 1761, DIED 1849).

ON THE BRITISH TREATY—HOUSE OF REPRESENTA-
TIVES, APRIL 26, 1796.²

MR. CHAIRMAN :

I will not follow some of the gentlemen who have preceded me, by dwelling upon the discretion of the legislature ; a question which has already been the subject of our deliberations, and been decided by a solemn vote.³ Gentlemen who were in the minority on that question may give any construction they please to the declaratory resolution of the House ; they may again repeat that to refuse to carry the treaty into effect is a breach of the public faith which they conceive as being pledged by the President and Senate. This has been the ground on which a difference of opinion has existed

* For notes on Gallatin see Appendix, p. 353.

since the beginning of the discussion. It is because the House thinks that the faith of the nation cannot, on those subjects submitted to the power of Congress, be pledged by any constituted authority other than the legislature, that they resolved that in all such cases it is their right and duty to consider the expediency of carrying a treaty into effect. If the House think the faith of the nation already pledged they can not claim any discretion; there is no room left to deliberate upon the expediency of the thing. The resolution now under consideration is merely "that it is expedient to carry the British treaty into effect," and not whether we are bound by national faith to do it. I will therefore consider the question of expediency alone; and thinking as I do that the House has full discretion on this subject, I conceive that there is as much responsibility in deciding in the affirmative as in rejecting the resolution, and that we shall be equally answerable for the consequences that may follow from either.

It is true, however, that there was a great difference between the situation of this country in the year 1794, when a negotiator was appointed, and that in which we are at present;

and that consequences will follow the refusal to carry into effect the treaty in its present stage, which would not have attended a refusal to negotiate and to enter into such a treaty. The question of expediency, therefore, assumes before us a different and more complex shape than when before the negotiator, the Senate, or the President. The treaty, in itself and abstractedly considered, may be injurious; it may be such an instrument as in the opinion of the House ought not to have been adopted by the Executive; and yet such as it is we may think it expedient under the present circumstances to carry it into effect. I will therefore first take a view of the provisions of the treaty itself, and in the next place, supposing it is injurious, consider, in case it is not carried into effect, what will be the natural consequences of such refusal.

The provisions of the treaty relate either to the adjustment of past differences, or to the future intercourse of the two nations. The differences now existing between Great Britain and this country arose either from non-execution of some articles of the treaty of peace or from the effects of the present European war. The complaints of Great Britain in relation to

the treaty of 1783 were confined to the legal impediments thrown by the several States in the way of the recovery of British debts. The late treaty provides adequate remedy on that subject ; the United States are bound to make full and complete compensation for any losses arising from that source, and every ground of complaint on the part of Great Britain is removed.

Having thus done full justice to the other nation, America has a right to expect that equal attention shall be paid to her claims arising from infractions of the treaty of peace, viz., compensation for the negroes carried away by the British ; restoration of the western posts, and indemnification for their detention.

On the subject of the first claim, which has been objected to as groundless, I will observe that I am not satisfied that the construction given by the British government to that article of the treaty is justified even by the letter of the article. That construction rests on the supposition that slaves come under the general denomination of booty, and are alienated the moment they fall into possession of an enemy, so that all those who were in the hands of the

British when the treaty of peace was signed, must be considered as British and not as American property, and are not included in the article. It will, however, appear by recurring to Vattel when speaking of the right of "Postliminium,"⁴ that slaves cannot be considered as a part of the booty which is alienated by the act of capture, and that they are to be ranked rather with real property, to the profits of which only the captors are entitled. Be that as it may, there is no doubt that the construction given by America is that which was understood by the parties at the time of making the treaty. The journals of Mr. Adams, quoted by a gentleman from Connecticut, Mr. Coit, prove this fully; for when he says that the insertion of this article was alone worth the journey of Mr. Laurens from London,⁵ can it be supposed that he would have laid so much stress on a clause, which, according to the new construction now attempted to be given, means only that the British would commit no new act of hostility—would not carry away slaves at that time in possession of Americans? Congress recognized that construction by adopting the resolution which has been already quoted, and which was introduced

upon the motion of Mr. Alexander Hamilton; and it has not been denied that the British ministry during Mr. Adams' embassy also agreed to it.*

But when our negotiator had, for the sake of peace, waived that claim; when he had also abandoned the right which America had to demand an indemnification for the detention of the posts, although he had conceded the right of a similar nature, which Great Britain had for the detention of debts; when he had thus given up everything which might be supposed to be of a doubtful nature, it might have been hoped that our last claim—a claim on which there was not and there never had been any dispute—the western posts should have been restored according to the terms of the treaty of peace. Upon what ground the British insisted, and our negotiator conceded, that this late restitution should be saddled with new conditions, which made no part of the original contract, I am at a loss to know. British traders are allowed by the new treaty to remain within the posts without becoming citizens of the United States; and to carry on trade and commerce with the Indians living within our boundaries without being subject to any con-

trol from our government. In vain is it said that if that clause had not been inserted we would have found it to our interest to effect it by our own laws. Of this we are alone competent judges; if that condition is harmless at present it is not possible to foresee whether, under future circumstances, it will not prove highly injurious; and whether harmless or not, it is not less a permanent and new condition imposed upon us. But the fact is, that by the introduction of that clause, by obliging us to keep within our jurisdiction, as British subjects, the very men who have been the instruments used by Great Britain to promote Indian wars on our frontiers; by obliging us to suffer those men to continue their commerce with the Indians living in our territory, uncontrolled by those regulations which we have thought necessary in order to restrain our own citizens in their intercourse with these tribes, Great Britain has preserved her full influence with the Indian nations. By a restoration of the posts under that condition we have lost the greatest advantage that was expected from their possession, viz.: future security against the Indians. In the same manner have the British preserved the commercial advantages which result from

the occupancy of those posts, by stipulating as a permanent condition, a free passage for their goods across our portages without paying any duty.

Another article of the new treaty which is connected with the provisions of the treaty of 1783 deserves consideration ; I mean what relates to the Mississippi. At the time when the navigation of that river to its mouth was by the treaty of peace declared to be common to both nations, Great Britain communicated to America a right which she held by virtue of the treaty of 1763, and as owner of the Floridas ; but since that cession to the United States, England has ceded to Spain her claim on the Floridas, and does not own at the present time an inch of ground, either on the mouth or on any part of that river. Spain now stands in the place of Great Britain, and by virtue of the treaty of 1783 it is to Spain and America, and not to England and America, that the navigation of the Mississippi is at present to be common. Yet, notwithstanding this change of circumstances, we have repeated that article of the former treaty in the late one, and have granted to Great Britain the additional privilege of using our ports on the eastern side of the

river, without which, as they own no land thereon, they could not have navigated it. Nor is this all. Upon a supposition that the Mississippi does not extend so far northward as to be intersected by a line drawn due west from the Lake of the Woods, or, in other words, upon a supposition that Great Britain has not a claim even to touch the Mississippi, we have agreed, not upon what will be the boundary line, but that we will hereafter negotiate to settle that line. Thus leaving to future negotiation what should have been finally settled by the treaty itself, in the same manner as all other differences were, is calculated for the sole purpose, either of laying the foundation of future disputes, or of recognizing a claim in Great Britain on the waters of the Mississippi, even if their boundary line leaves to the southward the sources of that river. Had not that been the intention of Great Britain the line would have been settled at once by the treaty, according to either of the two only rational ways of doing it in conformity to the treaty of 1783, that is to say, by agreeing that the line should run from the northernmost sources of the Mississippi, either directly to the western extremity of the Lake of the Woods, or northwardly till

it intersected the line to be drawn due west from that lake. But by repeating the article of the treaty of 1783; by conceding the free use of our ports on the river, and by the insertion of the fourth article, we have admitted that Great Britain, in all possible events, has still a right to navigate that river from its source to its mouth. What may be the future effects of these provisions, especially as they regard our intercourse with Spain, it is impossible at present to say; but although they can bring us no advantage, they may embroil us with that nation: and we have already felt the effect of it in our late treaty with Spain, since we were obliged, on account of that clause of the British treaty, to accept as a gift and a favor the navigation of that river which we had till then claimed as a right. * * *

But if, leaving commercial regulations, we shall seek in the treaty for some provisions securing to us the free navigation of the ocean against any future aggressions on our trade, where are they to be found? I can add nothing to what has been said on the subject of contraband articles: it is, indeed, self-evident, that, connecting our treaty with England on that subject with those we have made with

other nations, it amounts to a positive compact to supply that nation exclusively with naval stores whenever they may be at war. Had the list of contraband articles been reduced—had naval stores and provisions, our two great staple commodities, been declared not to be contraband, security would have been given to the free exportation of our produce ; but instead of any provision being made on that head, an article of a most doubtful nature, and on which I will remark hereafter, has been introduced. But I mean, for the present, to confine my observations to the important question of free bottoms making free goods. It was with the utmost astonishment that I heard the doctrine advanced on this floor, that such a provision, if admitted, would prove injurious to America, inasmuch as in case of war between this country and any other nation, the goods of that nation might be protected by the English flag. It is not to a state of war that the benefits of this provision would extend ; but it is the only security which neutral nations can have against the legal plundering on the high seas, so often committed by belligerent powers. It is not for the sake of protecting an enemy's property ; it is not for the sake of securing an advantageous

carrying trade ; but it is in order effectually to secure ourselves against sea aggressions, that this provision is necessary. Spoliations may arise from unjust orders, given by the government of a belligerent nation to their officers and cruisers, and these may be redressed by application to and negotiation with that order. But no complaints, no negotiations, no orders of government itself, can give redress when those spoliations are grounded on a supposition, that the vessels of the neutral nation have an enemy's property on board, as long as such property is not protected by the flag of the neutral nation ; as long as it is liable to be captured, it is not sufficient, in order to avoid detention and capture, to have no such property on board. Every privateer, under pretence that he suspects an enemy's goods to be part of a cargo, may search, vex, and capture a vessel ; and if in any corner of the dominions of the belligerent power, a single judge can be found inclined, if not determined, to condemn, at all events, before his tribunal, all vessels so captured will be brought there, and the same pretence which caused the capture will justify a condemnation. The only nation who persists in the support of this doctrine, as making part

of the law of nations, is the first maritime power of Europe, whom their interest, as they are the strongest, and as there is hardly a maritime war in which they are not involved, leads to wish for a continuation of a custom which gives additional strength to their overbearing dominion over the seas. All the other nations have different sentiments and a different interest. During the American war, in the year 1780, so fully convinced were the neutral nations of the necessity of introducing that doctrine of free bottoms making free goods, that all of them, excepting Portugal, who was in a state of vassalage to, and a mere appendage of, Great Britain, united in order to establish the principle, and formed for that purpose the alliance known by the name of the armed neutrality. All the belligerent powers, except England, recognized and agreed to the doctrine. England itself was obliged, in some measure, to give, for a while, a tacit acquiescence. America, at the time, fully admitted the principle, although then at war.

Since the year 1780, every nation, so far as my knowledge goes, has refused to enter into a treaty of commerce with England, unless that provision was inserted. Russia, for that reason,

would not renew their treaty, which had expired in 1786; although I believe that, during the present war, and in order to answer the ends of the war, they formed a temporary convention, which I have not seen, but which, perhaps, does not include that provision. England consented to it in her treaty with France, in 1788, and we are the first neutral nation who has abandoned the common cause, given up the claim, and by a positive declaration inserted in our treaty, recognized the contrary doctrine. It has been said that, under the present circumstances, it could not be expected that Great Britain would give up the point; perhaps so; but the objection is not, that our negotiator has not been able to obtain that principle, but that he has consented to enter into a treaty of commerce which we do not want, and which has no connection with an adjustment of our differences with Great Britain, without the principle contended for making part of that treaty. Unless we can obtain security for our navigation, we want no treaty; and the only provision which can give us that security, should have been the *sine qua non* of a treaty. On the contrary, we have disgusted all the other neutral nations of Europe, without whose

concert and assistance there is but little hope that we shall ever obtain that point; and we have taught Great Britain that we are disposed to form the most intimate connections with her, even at the expense of recognizing a principle the most fatal to the liberty of commerce and to the security of our navigation.

But, if we could not obtain anything which might secure us against future aggressions, should we have parted, without receiving any equivalent, with those weapons of self-defence, which, although they could not repel, might, in some degree, prevent any gross attacks upon our trade—any gross violation of our rights as a neutral nation? We have no fleet to oppose or to punish the insults of Great Britain; but, from our commercial relative situation, we have it in our power to restrain her aggressions, by restrictions on her trade, by a total prohibition of her manufactures, or by a sequestration of the debts due to her. By the treaty, not satisfied with receiving nothing, not satisfied with obtaining no security for the future, we have, of our own accord, surrendered those defensive arms, for fear they might be abused by ourselves. We have given up the two first, for the whole time during which we might

want them most, the period of the present war ; and the last, the power of sequestration, we have abandoned for ever : every other article of the treaty of commerce is temporary ; this perpetual.

I shall not enter into a discussion of the immorality of sequestering private property. What can be more immoral than war ; or plundering on the high seas, legalized under the name of privateering ? Yet self-defence justifies the first, and the necessity of the case may, at least in some instances, and where it is the only practicable mode of warfare left to a nation, apologize even for the last. In the same manner, the power of sequestration may be resorted to, as the last weapon of self-defence, rather than to seek redress by an appeal to arms. It is the last peace measure that can be taken by a nation ; but the treaty, by declaring, that in case of national differences it shall not be resorted to, has deprived us of the power of judging of its propriety, has rendered it an act of hostility, and has effectually taken off that restraint, which a fear of its exercise laid upon Great Britain.

Thus it appears that by the treaty we have promised full compensation to England for

every possible claim they may have against us, that we have abandoned every claim of a doubtful nature, and that we have consented to receive the posts, our claim to which was not disputed, under new conditions and restrictions never before contemplated; that after having obtained by those concessions an adjustment of past differences, we have entered into a new agreement, unconnected with those objects, which have heretofore been subjects of discussion between the two nations; and that by this treaty of commerce and navigation, we have obtained no commercial advantage which we did not enjoy before, we have obtained no security against future aggressions, no security in favor of the freedom of our navigation, and we have parted with every pledge we had in our hands, with every power of restriction, with every weapon of self-defence which is calculated to give us any security. * * *

From the review I have taken of the treaty, and the opinions I have expressed, it is hardly necessary for me to add, that I look upon the instrument as highly injurious to the interests of the United States, and that I earnestly wish it never had been made; but whether in its

present stage the House ought to refuse to carry it into effect, and what will be the probable consequences of a refusal, is a question which requires the most serious attention, and which I will now attempt to investigate.

Should the treaty be finally defeated, either new negotiations will be more successful or Great Britain will refuse to make a new arrangement, and leave things in the situation in which they now are, or war will be the consequence. I will, in the course of my observations, make some remarks on the last supposition. I do not think that the first will be very probable at present, and I am of opinion that, under the present circumstances, and until some change takes place in our own or in the relative political situation of the European nations, it is to be apprehended that, in such a case, new negotiations will either be rejected or prove unsuccessful. Such an event might have perhaps followed a rejection of the treaty even by the Senate or by the President. After the negotiator employed by the United States had once affixed his signature it must have become very problematical, unless he had exceeded his powers, whether a refusal to sanction the contract he had made would not

eventually defeat, at least for a time, the prospect of a new treaty. I conceive that the hopes of obtaining better conditions by a new negotiation are much less in the present stage of the business than they were when the treaty was in its inchoate form before the Executive ; and in order to form a just idea of the consequences of a rejection at present, I will contemplate them upon this supposition, which appears to me most probable, to wit, that no new treaty will take place for a certain period of time.

In mentioning my objections to the treaty itself, I have already stated the advantages which in my opinion would result to the United States from the non-existence of that instrument ; I will not repeat, but proceed at once to examine what losses may accrue that can be set off against those advantages. * * *

The further detention of the posts, the national stain that will result from receiving no reparation for the spoliation on our trade, and the uncertainty of a final adjustment of our differences with Great Britain, are the three evils which strike me as resulting from a rejection of the treaty ; and when to those considerations I add that of the present situation of

this country, of the agitation of the public mind, and of the advantages that will arise from union of sentiments, however injurious and unequal I conceive the treaty to be, however repugnant it may be to my feelings, and perhaps to my prejudices, I feel induced to vote for it, and will not give my assent to any proposition which will imply its rejection. But the conduct of Great Britain since the treaty was signed, the impressment of our seamen, and their uninterrupted spoliations on our trade, especially by seizing our vessels laden with provisions, a proceeding which they may perhaps justify by one of the articles of the treaty, are such circumstances as may induce us to pause awhile, in order to examine whether it is proper, immediately and without having obtained any explanation thereon, to adopt the resolution on the table, and to pass, at present, all the laws necessary to carry the treaty into effect. * * *

Whatever evils may follow a rejection of the treaty, they will not attend a postponement. To suspend our proceedings will not throw us into a situation which will require new negotiations, new arrangements on the points already settled and well understood by both

parties. It will be merely a delay, until an explanation of the late conduct of the British towards us may be obtained, or until that conduct may be altered. If, on the contrary, we consent to carry the treaty into effect, under the present circumstances, what will be our situation in future? It is by committing the most wanton and the most unprovoked aggressions on our trade; it is by seizing a large amount of our property as a pledge for our good behavior, that Great Britain has forced the nation into the present treaty. If by threatening new hostilities, or rather by continuing her aggressions, even after the treaty is made, she can force us also to carry it into effect, our acquiescence will be tantamount to a declaration that we mean to submit in proportion to the insults that are offered to us; and this disposition being once known, what security have we against new insults, new aggressions, new spoliations, which probably will lay the foundation of some additional sacrifices on ours? It has been said, and said with truth, that to put up with the indignities we have received without obtaining any reparation, which will probably be the effect of defeating the treaty, is highly dishonorable to the nation.

In my opinion it is still more so not only tamely to submit to a continuation of these national insults, but while they thus continue uninterrupted, to carry into effect the instrument we have consented to accept as a reparation for former ones. When the general conduct of Great Britain towards us from the beginning of the present war is considered; when the means by which she has produced the treaty are reflected on, a final compliance on our part while she still persists in that conduct, whilst the chastening rod of that nation is still held over us, is in my opinion a dereliction of national interest, of national honor, of national independence.

But it is said, that war must be the consequence of our delaying to carry the treaty into effect. Do the gentlemen mean, that if we reject the treaty, if we do not accept the reparation there given to us, in order to obtain redress, we have no alternative left but war? If we must go to war in order to obtain reparation for insults and spoliation on our trade, we must do it, even if we carry the present treaty into effect; for this treaty gives us no reparation for the aggressions committed since it was ratified, has not produced a discontinu-

ance of those acts of hostility, and gives us no security that they shall be discontinued. But the arguments of those gentlemen, who suppose that America must go to war, apply to a final rejection of the treaty, and not to a delay. I do not propose to refuse the reparation offered by the treaty, and to put up with the aggressions committed; I have agreed that that reparation, such as it is, is a valuable article of the treaty; I have agreed, that under the present circumstances, a greater evil will follow a total rejection of, than an acquiescence in, the treaty. The only measure which has been mentioned, in preference to the one now under discussion, is a suspension, a postponement, whilst the present spoliations continue, in hopes to obtain for them a similar reparation, and assurances that they shall cease.

But is it meant to insinuate that it is the final intention of those who pretend to wish only for a postponement, to involve this country in a war? There has been no period during the present European war, at which it would not have been equally weak and wicked to adopt such measures as must involve America in the contest, unless forced into it for the sake of self-defence; but, at this time, to think

of it would fall but little short of madness. The whole American nation would rise in opposition to the idea ; and it might at least have been recollected, that war can not be declared, except by Congress, and that two of the branches of government are sufficient to check the other in any supposed attempt of this kind.

If there is no necessity imposed upon America to go to war, if there is no apprehension she will, by her own conduct, involve herself in one, the danger must arise from Great Britain, and the threat is, that she will make war against us if we do not comply. Gentlemen first tell us that we have made the best possible bargain with that nation ; that she has conceded every thing, without receiving a single iota in return, and yet they would persuade us, that she will make war against us in order to force us to accept that contract so advantageous to us, and so injurious to herself. It will not be contended that a delay, until an amicable explanation is obtained, could afford even a pretence to Great Britain for going to war ; and we all know that her own interest would prevent her. If another campaign takes place, it is acknowledged, that all her efforts are to be exerted

against the West Indies. She has proclaimed her own scarcity of provisions at home, and she must depend on our supplies to support her armament. It depends upon us to defeat her whole scheme, and this is a sufficient pledge against open hostility, if the European war continues. If peace takes place, there will not be even the appearance of danger; the moment when a nation is happy enough to emerge from one of the most expensive, bloody, and dangerous wars in which she ever has been involved, will be the last she would choose to plunge afresh into a similar calamity.

But to the cry of war, the alarmists do not fail to add that of confusion; and they have declared, even on this floor, that if the resolution is not adopted government will be dissolved. Government dissolved in case a postponement takes place! The idea is too absurd to deserve a direct answer. But I will ask those gentlemen, by whom is government to be dissolved? Certainly not by those who may vote against the resolution; for although they are not perhaps fortunate enough to have obtained the confidence of the gentlemen who voted against them, still it must be agreed, that those who succeed in their wishes, who defeat a measure

they dislike, will not wish to destroy that government, which they hold so far in their hands as to be able to carry their own measures. For them to dissolve government, would be to dissolve their own power. By whom, then, I again ask, is the government to be dissolved? The gentlemen must answer—by themselves—or they must declare that they mean nothing but to alarm. Is it really the language of those men, who profess to be, who distinguish themselves by the self-assumed appellation of friends to order, that if they do not succeed in all their measures they will upset government—and have all their professions been only a veil to hide their love of power, a pretence to cover their ambition? Do they mean, that the first event which shall put an end to their own authority shall be the last act of government? As to myself, I do not believe that they have such intentions; I have too good an opinion of their patriotism to allow myself to admit such an idea a single moment; but I think myself justifiable in entertaining a belief, that some amongst them, in order to carry a favorite, and what they think to be an advantageous measure, mean to spread an alarm which they do not feel; and I have no doubt, that many

have contracted such a habit of carrying every measure of government as they please, that they really think that every thing must be thrown into confusion the moment they are thwarted in a matter of importance. I hope that experience will in future cure their fears. But, at all events, be the wishes and intentions of the members of this House what they may, it is not in their power to dissolve the government. The people of the United States, from one end of the continent to the other, are strongly attached to their Constitution; they would restrain and punish the excesses of any party, of any set of men in government, who would be guilty of the attempt; and on them I will rest as a full security against every endeavor to destroy our Union, our Constitution, or our government. * * *

If the people of the United States wish this House to carry the treaty into effect immediately, and notwithstanding the continued aggressions of the British, if their will was fairly and fully expressed, I would immediately acquiesce; but since an appeal has been made to them, it is reasonable to suspend a decision until their sentiments are known. Till then I must follow my own judgment; and as I can-

not see that any possible evils will follow a delay, I shall vote against the resolution before the committee, in order to make room, either for that proposed by my colleague, Mr. Maclay, or for any other, expressed in any manner whatever, provided it embraces the object I have in view, to wit, the suspension of the final vote—a postponement of the laws necessary to carry the treaty into effect, until satisfactory assurances are obtained that Great Britain means, in future, to show us that friendly disposition which it is my earnest wish may at all times be cultivated by America towards all other nations.

FISHER AMES,*
OF MASSACHUSETTS.¹
(BORN 1758, DIED 1808.)

ON THE BRITISH TREATY, HOUSE OF REPRESENTA-
TIVES, APRIL 28, 1796.²

IT would be strange, that a subject, which has aroused in turn all the passions of the country, should be discussed without the interference of any of our own. We are men, and therefore not exempt from those passions; as citizens and representatives, we feel the interests that must excite them. The hazard of great interests cannot fail to agitate strong passions. We are not disinterested; it is impossible we should be dispassionate. The warmth of such feelings may becloud the judgment, and, for a time, pervert the understanding. But the public sensibility, and our own, has sharpened the spirit of inquiry, and given an animation to the debate. The public attention has been quickened to mark the progress of the

* For notes on Ames see Appendix, p. 359.

discussion, and its judgment, often hasty and erroneous on first impressions, has become solid and enlightened at last. Our result will, I hope, on that account, be safer and more mature, as well as more accordant with that of the nation. The only constant agents in political affairs are the passions of men. Shall we complain of our nature—shall we say that man ought to have been made otherwise? It is right already, because He, from whom we derive our nature, ordained it so; and because thus made and thus acting, the cause of truth and the public good is more surely promoted. * * *

The treaty is bad, fatally bad, is the cry. It sacrifices the interest, the honor, the independence of the United States, and the faith of our engagements to France. If we listen to the clamor of party intemperance, the evils are of a number not to be counted, and of a nature not to be borne, even in idea. The language of passion and exaggeration may silence that of sober reason in other places, it has not done it here. The question here is, whether the treaty be really so very fatal as to oblige the nation to break its faith. I admit that such a treaty ought not to be executed. I admit that self-

preservation is the first law of society, as well as of individuals. It would, perhaps, be deemed an abuse of terms to call that a treaty, which violates such a principle. I waive also, for the present, any inquiry, what departments shall represent the nation, and annul the stipulations of a treaty. I content myself with pursuing the inquiry, whether the nature of this compact be such as to justify our refusal to carry it into effect. A treaty is the promise of a nation. Now, promises do not always bind him that makes them. But I lay down two rules, which ought to guide us in this case. The treaty must appear to be bad, not merely in the petty details, but in its character, principle, and mass. And in the next place, this ought to be ascertained by the decided and general concurrence of the enlightened public.

*See Rom-
melt!*

I confess there seems to be something very like ridicule thrown over the debate by the discussion of the articles in detail. The undecided point is, shall we break our faith? And while our country and enlightened Europe, await the issue with more than curiosity, we are employed to gather piecemeal, and article by article, from the instrument, a justification for the deed by trivial calculations of commer-

cial profit and loss. This is little worthy of the subject, of this body, or of the nation. If the treaty is bad, it will appear to be so in its mass. Evil to a fatal extreme, if that be its tendency, requires no proof; it brings it. Extremes speak for themselves and make their own law. What if the direct voyage of American ships to Jamaica with horses or lumber, might net one or two *per centum* more than the present trade to Surinam; would the proof of the fact avail any thing in so grave a question as the violation of the public engagements? * * *

Why do they complain, that the West Indies are not laid open? Why do they lament, that any restriction is stipulated on the commerce of the East Indies? Why do they pretend, that if they reject this, and insist upon more, more will be accomplished? Let us be explicit—more would not satisfy. If all was granted, would not a treaty of amity with Great Britain still be obnoxious? Have we not this instant heard it urged against our envoy, that he was not ardent enough in his hatred of Great Britain? A treaty of amity is condemned because it was not made by a foe, and in the spirit of one. The same gentleman, at the same instant, repeats a very prevailing objec-

tion, that no treaty should be made with the enemy of France. No treaty, exclaim others, should be made with a monarch or a despot; there will be no naval security while those sea-robbers domineer on the ocean; their den must be destroyed; that nation must be extirpated.

I like this, sir, because it is sincerity. With feelings such as these, we do not pant for treaties. Such passions seek nothing, and will be content with nothing, but the destruction of their object. If a treaty left King George his island, it would not answer; not if he stipulated to pay rent for it. It has been said, the world ought to rejoice if Britain was sunk in the sea; if where there are now men and wealth and laws and liberty, there was no more than a sand bank for sea monsters to fatten on; a space for the storms of the ocean to mingle in conflict. * * *

What is patriotism? Is it a narrow affection for the spot where a man was born? Are the very clods where we tread entitled to this ardent preference because they are greener? No, sir, this is not the character of the virtue, and it soars higher for its object. It is an extended self-love, mingling with all the enjoyments of life, and twisting itself with the minutest filaments of the heart. It is thus we obey

the laws of society, because they are the laws of virtue. In their authority we see, not the array of force and terror, but the venerable image of our country's honor. Every good citizen makes that honor his own, and cherishes it not only as precious, but as sacred. He is willing to risk his life in its defence, and is conscious that he gains protection while he gives it. For, what rights of a citizen will be deemed inviolable when a state renounces the principles that constitute their security? Or if his life should not be invaded, what would its enjoyments be in a country odious in the eyes of strangers and dishonored in his own? Could he look with affection and veneration to such a country as his parent? The sense of having one would die within him; he would blush for his patriotism, if he retained any, and justly, for it would be a vice. He would be a banished man in his native land. I see no exception to the respect that is paid among nations to the law of good faith. If there are cases in this enlightened period when it is violated, there are none when it is decried. It is the philosophy of politics, the religion of governments. It is observed by barbarians—a whiff of tobacco smoke, or a string of beads, gives not merely

binding force but sanctity to treaties. Even in Algiers, a truce may be bought for money, but when ratified, even Algiers is too wise, or too just, to disown and annul its obligation. Thus we see, neither the ignorance of savages, nor the principles of an association for piracy and rapine, permit a nation to despise its engagements. If, sir, there could be a resurrection from the foot of the gallows, if the victims of justice could live again, collect together and form a society, they would, however loath, soon find themselves obliged to make justice, that justice under which they fell, the fundamental law of their state. They would perceive, it was their interest to make others respect, and they would therefore soon pay some respect themselves, to the obligations of good faith.

It is painful, I hope it is superfluous, to make even the supposition, that America should furnish the occasion of this opprobrium. No, let me not even imagine, that a republican government, sprung, as our own is, from a people enlightened and uncorrupted, a government whose origin is right, and whose daily discipline is duty, can, upon solemn debate, make its option to be faithless—can dare to act what

despots dare not avow, what our own example evinces, the states of Barbary are unsuspected of. No, let me rather make the supposition, that Great Britain refuses to execute the treaty, after we have done every thing to carry it into effect. Is there any language of reproach pungent enough to express your commentary on the fact? What would you say, or rather what would you not say? Would you not tell them, wherever an Englishman might travel, shame would stick to him—he would disown his country. You would exclaim, England, proud of your wealth, and arrogant in the possession of power—blush for these distinctions, which become the vehicles of your dishonor. Such a nation might truly say to corruption, thou art my father, and to the worm, thou art my mother and my sister. We should say of such a race of men, their name is a heavier burden than their debt. * * *

The refusal of the posts (inevitable if we reject the treaty) is a measure too decisive in its nature to be neutral in its consequences. From great causes we are to look for great effects. A plain and obvious one will be, the price of the Western lands will fall. Settlers will not choose to fix their habitation on a field

of battle. Those who talk so much of the interest of the United States, should calculate how deeply it will be affected by rejecting the treaty; how vast a tract of wild land will almost cease to be property. This loss, let it be observed, will fall upon a fund expressly devoted to sink the national debt. What then are we called upon to do? However the form of the vote and the protestations of many may disguise the proceeding, our resolution is in substance, and it deserves to wear the title of a resolution to prevent the sale of the Western lands and the discharge of the public debt.

Will the tendency to Indian hostilities be contested by any one? Experience gives the answer. The frontiers were scourged with war till the negotiation with Great Britain was far advanced, and then the state of hostility ceased. Perhaps the public agents of both nations are innocent of fomenting the Indian war, and perhaps they are not. We ought not, however, to expect that neighboring nations, highly irritated against each other, will neglect the friendship of the savages; the traders will gain an influence and will abuse it; and who is ignorant that their passions are easily raised, and hardly restrained from violence? Their situation will oblige them

to choose between this country and Great Britain, in case the treaty should be rejected. They will not be our friends, and at the same time the friends of our enemies.

But am I reduced to the necessity of proving this point? Certainly the very men who charged the Indian war on the detention of the posts, will call for no other proof than the recital of their own speeches. It is remembered with what emphasis, with what acrimony, they expatiated on the burden of taxes, and the drain of blood and treasure into the Western country, in consequence of Britain's holding the posts. Until the posts are restored, they exclaimed, the treasury and the frontiers must bleed.

If any, against all these proofs, should maintain that the peace with the Indians will be stable without the posts, to them I urge another reply. From arguments calculated to produce conviction, I will appeal directly to the hearts of those who hear me, and ask, whether it is not already planted there? I resort especially to the convictions of the Western gentlemen, whether supposing no posts and no treaty, the settlers will remain in security? Can they take it upon them to say, that an Indian peace, under these circumstances, will prove firm? No, sir,

it will not be peace, but a sword ; it will be no better than a lure to draw victims within the reach of the tomahawk.

On this theme my emotions are unutterable. If I could find words for them, if my powers bore any proportion to my zeal, I would swell my voice to such a note of remonstrance, it should reach every log-house beyond the mountains. I would say to the inhabitants, wake from your false security ; your cruel dangers, your more cruel apprehensions are soon to be renewed ; the wounds, yet unhealed, are to be torn open again ; in the daytime, your path through the woods will be ambushed ; the darkness of midnight will glitter with the blaze of your dwellings. You are a father—the blood of your sons shall fatten your cornfield ; you are a mother—the war-whoop shall wake the sleep of the cradle.

On this subject you need not suspect any deception on your feelings. It is a spectacle of horror, which cannot be overdrawn. If you have nature in your hearts, it will speak a language, compared with which all I have said or can say will be poor and frigid.

Will it be whispered that the treaty has made me a new champion for the protection of

the frontiers? It is known that my voice as well as vote have been uniformly given in conformity with the ideas I have expressed. Protection is the right of the frontiers; it is our duty to give it.

Who will accuse me of wandering out of the subject? Who will say that I exaggerate the tendencies of our measures? Will any one answer by a sneer, that all this is idle preaching? Will any one deny, that we are bound, and I would hope to good purpose, by the most solemn sanctions of duty for the vote we give? Are despots alone to be reproached for unfeeling indifference to the tears and blood of their subjects? Have the principles on which you ground the reproach upon cabinets and kings no practical influence, no binding force? Are they merely themes of idle declamation introduced to decorate the morality of a newspaper essay, or to furnish petty topics of harangue from the windows of that state-house? I trust it is neither too presumptuous nor too late to ask. Can you put the dearest interest of society at risk without guilt and without remorse.

It is vain to offer as an excuse, that public men are not to be reproached for the evils that may happen to ensue from their measures.

This is very true where they are unforeseen or inevitable. Those I have depicted are not unforeseen; they are so far from inevitable, we are going to bring them into being by our vote. We choose the consequences, and become as justly answerable for them as for the measures that we know will produce them.

By rejecting the posts we light the savage fires—we bind the victims. This day we undertake to render account to the widows and orphans whom our decision will make, to the wretches that will be roasted at the stake, to our country, and I do not deem it too serious to say, to conscience and to God. We are answerable, and if duty be any thing more than a word of imposture, if conscience be not a bugbear, we are preparing to make ourselves as wretched as our country.

There is no mistake in this case—there can be none. Experience has already been the prophet of events, and the cries of future victims have already reached us. The Western inhabitants are not a silent and uncomplaining sacrifice. The voice of humanity issues from the shade of their wilderness. It exclaims that, while one hand is held up to reject this treaty, the other grasps a tomahawk. It summons

our imagination to the scenes that will open. It is no great effort of the imagination to conceive that events so near are already begun. I can fancy that I listen to the yells of savage vengeance, and the shrieks of torture. Already they seem to sigh in the west wind—already they mingle with every echo from the mountains.

It is not the part of prudence to be inattentive to the tendencies of measures. Where there is any ground to fear that these will prove pernicious, wisdom and duty forbid that we should underrate them. If we reject the treaty, will our peace be as safe as if we executed it with good faith? I do honor to the intrepid spirits of those who say it will. It was formerly understood to constitute the excellence of a man's faith to believe without evidence and against it.

But, as opinions on this article are changed, and we are called to act for our country, it becomes us to explore the dangers that will attend its peace, and to avoid them if we can. * * *

Is there any thing in the prospect of the interior state of the country to encourage us to aggravate the dangers of a war? Would not the shock of that evil produce another, and

shake down the feeble and then unbraced structure of our government? Is this a chimera? Is it going off the ground of matter of fact to say, the rejection of the appropriation proceeds upon the doctrine of a civil war of the departments? Two branches have ratified a treaty, and we are going to set it aside. How is this disorder in the machine to be rectified? While it exists its movements must stop, and when we talk of a remedy, is that any other than the formidable one of a revolutionary one of the people? And is this, in the judgment even of my opposers, to execute, to preserve the constitution and the public order? Is this the state of hazard, if not of convulsion, which they can have the courage to contemplate and to brave, or beyond which their penetration can reach and see the issue? They seem to believe, and they act as if they believed, that our union, our peace, our liberty, are invulnerable and immortal—as if our happy state was not to be disturbed by our dissensions, and that we are not capable of falling from it by our unworthiness. Some of them have, no doubt, better nerves and better discernment than mine. They can see the bright aspects and the happy consequences of all this

array of horrors. They can see intestine discords, our government disorganized, our wrongs aggravated, multiplied, and unredressed, peace with dishonor, or war without justice, union, or resources, in "the calm lights of mild philosophy."

But whatever they may anticipate as the next measure of prudence and safety, they have explained nothing to the house. After rejecting the treaty, what is to be the next step? They must have foreseen what ought to be done; they have doubtless resolved what to propose. Why then are they silent? Dare they not avow their plan of conduct, or do they wait till our progress toward confusion shall guide them in forming it?

Let me cheer the mind, weary, no doubt, and ready to despond on this prospect, by presenting another, which it is yet in our power to realize. Is it possible for a real American to look at the prosperity of this country without some desire for its continuance—without some respect for the measures which, many will say, produced, and all will confess, have preserved, it? Will he not feel some dread that a change of system will reverse the scene? The well-grounded fears of our citizens in 1794 were re-

moved by the treaty, but are not forgotten. Then they deemed war nearly inevitable, and would not this adjustment have been considered, at that day, as a happy escape from the calamity? The great interest and the general desire of our people, was to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negotiation after the end of the European war. This was gaining every thing, because it confirmed our neutrality, by which our citizens are gaining every thing. This alone would justify the engagements of the government. For, when the fiery vapors of the war lowered in the skirts of our horizon, all our wishes were concentrated in this one, that we might escape the desolation of the storm. This treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded, at the same time, the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale,—it will be a baleful meteor portending tempest and war.

Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution.

Thus we shall save the faith of our nation, secure its peace, and diffuse the spirit of confidence and enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and, some will think, too rapid. The field for exertion is fruitful and vast, and if peace and good government should be preserved, the acquisitions of our citizens are not so pleasing as the proofs of their industry—as the instruments of their future success. The rewards of exertion go to augment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed-wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity. And in this progress, what seems to be fiction is found to fall short of experience.

I rose to speak under impressions that I would have resisted if I could. Those who see me will believe that the reduced state of my health has unfitted me, almost equally for much exertion of body or mind. Unprepared for debate, by careful reflection in my retirement, or by long attention here, I thought the resolution I had taken to sit silent, was imposed by necessity, and would cost me no effort to maintain. With a mind thus vacant of ideas,

and sinking, as I really am, under a sense of weakness, I imagined the very desire of speaking was extinguished by the persuasion that I had nothing to say. Yet, when I come to the moment of deciding the vote, I start back with dread from the edge of the pit into which we are plunging. In my view, even the minutes I have spent in expostulation have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it.

I have thus been led, by my feelings, to speak more at length than I intended. Yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote shall pass to reject, and a spirit should rise, as it will, with the public disorders, to make confusion worse confounded, even I, slender and almost broken as my hold upon life is, may outlive the government and constitution of my country.'

JOHN NICHOLAS,*
OF VIRGINIA.¹

(BORN 1763, DIED 1819.)

ON THE PROPOSED REPEAL OF THE SEDITION LAW—
HOUSE OF REPRESENTATIVES, FEB. 25, 1799.²

MR. CHAIRMAN :

The Select Committee had very truly stated that only the second and third sections of the act are complained of; that the part of the law which punishes seditious acts is acquiesced in, and that the part which goes to restrain what are called seditious writings is alone the object of the petitions. This part of the law is complained of as being unwarranted by the Constitution, and destructive of the first principles of republican government. It is always justifiable, in examining the principle of a law, to inquire what other laws can be passed with equal reason, and to impute to it all the mischiefs for which it may be used as a precedent.

* For notes on Nicholas see Appendix, p. 362.

In this case, little inquiry is left for us to make, the arguments in favor of the law carrying us immediately and by inevitable consequence to absolute power over the press.

It is not pretended that the Constitution has given any express authority, which they claim, for passing this law, and it is claimed only as implied in that clause of the Constitution which says: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." It is clear that this clause was intended to be merely an auxiliary to the powers specially enumerated in the Constitution; and it must, therefore, be so construed as to aid them, and at the same time to leave the boundaries between the General Government and the State governments untouched. The argument by which the Select Committee have endeavored to establish the authority of Congress over the press is the following: "Congress has power to punish seditious combinations to resist the laws, and therefore Congress must have the power to punish false, scandalous, and malicious writings; be-

cause such writings render the Administration odious and contemptible among the people, and by doing so have a tendency to produce opposition to the laws." To make it support the construction of the committee, it should say that "Congress shall have power over all acts which are likely to produce acts which hinder the execution of," etc. Our construction confines the power of Congress to such acts as immediately interfere with the execution of the enumerated powers of Congress, because the power can only be necessary as well as proper when the acts would really hinder the execution. The construction of the committee extends the power of Congress to all acts which have a relation, ever so many degrees removed, to the enumerated powers, or rather to the acts which would hinder their execution. By our construction, the Constitution remains defined and limited, according to the plain intent and meaning of its framers; by the construction of the committee, all limitation is lost, and it may be extended over the different actions of life as speculative politicians may think fit. What has a greater tendency to fit men for insurrection and resistance to government than dissolute, immoral habits, at once destroying love of

order, and dissipating the fortune which gives an interest in society? The doctrine that Congress can punish any act which has a tendency to hinder the execution of the laws, as well as acts which do hinder it, will, therefore, clearly entitle them to assume a general guardianship over the morals of the people of the United States. Again, nothing can have a greater tendency to ensure obedience to law, and nothing can be more likely to check every propensity to resistance to government, than virtuous and wise education; therefore Congress must have power to subject all the youth of the United States to a certain system of education. It would be very easy to connect every sort of authority used by any government with the well-being of the General Government, and with as much reason as the committee had for their opinion, to assign the power to Congress, although the consequence must be the prostration of the State governments.

But enough has been said to show the necessity of adhering to the common meaning of the word "necessary" in the clause under consideration, which is, that the power to be assumed must be one without which some one of the enumerated powers cannot exist or be main-

tained. It cannot escape notice, however, that the doctrine contended for, that the Administration must be protected against writings which are likely to bring it into contempt, as tending to opposition, will apply with more force to truth than falsehood. It cannot be denied that the discovery of maladministration will bring more lasting discredit on the government of a country than the same charges would if untrue. This is not an alarm founded merely on construction, for the governments which have exercised control over the press have carried it the whole length. This is notoriously the law of England, whence this system has been drawn; for there truth and falsehood are alike subject to punishment, if the publication brings contempt on the officers of government. * * *

The law has been current by the fair pretence of punishing nothing but falsehood, and by holding out to the accused the liberty of proving the truth of the writing; but it was from the first apprehended, and it seems now to be adjudged (the doctrine has certainly been asserted on this floor), that matters of opinion, arising on notorious facts, come under the law. If this is the case, where is the advantage of

the law requiring that the writing should be false before a man shall be liable to punishment, or of his having the liberty of proving the truth of his writing? Of the truth of facts there is an almost certain test; the belief of honest men is certain enough to entitle it to great confidence; but their opinions have no certainty at all. The trial of the truth of opinions, in the best state of society, would be altogether precarious; and perhaps a jury of twelve men could never be found to agree in any one opinion. At the present moment, when, unfortunately, opinion is almost entirely governed by prejudice and passion, it may be more decided, but nobody will say it is more respectable. Chance must determine whether political opinions are true or false, and it will not unfrequently happen that a man will be punished for publishing opinions which are sincerely his, and which are of a nature to be extremely interesting to the public, merely because accident or design has collected a jury of different sentiments. * * *

Is the power claimed proper for Congress to possess? It is believed not, and this will readily be admitted if it can be proved, as I think it can, that the persons who administer the gov-

ernment have an interest in the power to be confided opposed to that of the community. It must be agreed that the nature of our government makes a diffusion of knowledge of public affairs necessary and proper, and that the people have no mode of obtaining it but through the press. The necessity for their having this information results from its being their duty to elect all the parts of the Government, and, in this way, to sit in judgment over the conduct of those who have been heretofore employed. The most important and necessary information for the people to receive is that of the misconduct of the Government, because their good deeds, although they will produce affection and gratitude to public officers, will only confirm the existing confidence and will, therefore, make no change in the conduct of the people. The question, then, whether the Government ought to have control over the persons who alone can give information throughout a country is nothing more than this, whether men, interested in suppressing information necessary for the people to have, ought to be entrusted with the power, or whether they ought to have a power which their personal interest leads to the abuse of. I am sure no candid man will hesi-

tate about the answer ; and it may also safely be left with ingenuous men to say whether the misconduct which we sometimes see in the press had not better be borne with, than to run the risk of confiding the power of correction to men who will be constantly urged by their own feelings to destroy its usefulness. * * * How long can it be desirable to have periodical elections for the purpose of judging of the conduct of our rulers, when the channels of information may be choked at their will ?

But, sir, I have ever believed this question as settled by an amendment to the Constitution, proposed with others for declaring and restricting its powers, as the preamble declares, at the request of several of the States, made at the adoption of the Constitution, in order to prevent their misconstruction and abuse. This amendment is in the following words : “ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for a redress of grievances.” There can be no doubt about the effect of this amendment, unless the “ freedom of the press ” means

something very different from what it seems ; or unless there was some actual restraint upon it, under the Constitution of the United States, at the time of the adoption of this amendment, commensurate with that imposed by this law. Both are asserted, viz., that the "freedom of the press" has a defined, limited meaning, and that the restraints of the common law were in force under the United States, and are greater than those of the act of Congress, and that, therefore, either way the "freedom of the press" is not abridged.

It is asserted by the select committee, and by everybody who has gone before them in this discussion, that the "freedom of the press," according to the universally received acceptance of the expression, means only an exemption from all previous restraints on publication, but not an exemption from any punishment Government pleases to inflict for what is published. This definition does not at all distinguish between publications of different sorts, but leaves all to the regulation of the law, only forbidding Government to interfere until the publication is really made. The definition, if true, so reduces the effect of the amendment that the power of Congress is left unlimited

over the productions of the press, and they are merely deprived of one mode of restraint.

The amendment was certainly intended to produce some limitation to legislative discretion, and it must be construed so as to produce such an effect, if it is possible. * * * To give it such a construction as will bring it to a mere nullity would violate the strongest injunctions of common-sense and decorum, and yet that appears to me to be the effect of the construction adopted by the committee. * * * The effect of the amendment, say the committee, is to prevent Government taking the press from its owner ; but how is their power lessened by this, when they may take the printer from his press and imprison him for any length of time, for publishing what they choose to prohibit, although it may be ever so proper for public information ? The result is that Government may forbid any species of writing, true as well as false, to be published ; may inflict the heaviest punishments they can devise for disobedience, and yet we are very gravely assured that this is the "freedom of the press." * * *

A distinction is very frequently relied on between the freedom and the licentiousness of the press, which it is proper to examine. This

seems to me to refute every other argument which is used on this subject ; it amounts to an admission that there are some acts of the press which Congress ought not to have power to restrain, and that by the amendment they are prohibited to restrain these acts. Now, to justify any act of Congress, they ought to show the boundary between what is prohibited and what is permitted, and that the act is not within the prohibited class. The Constitution has fixed no such boundary, therefore they can pretend to no power over the press, without claiming the right of defining what is freedom and what is licentiousness, and that would be to claim a right which would defeat the Constitution ; for every Congress would have the same right, and the freedom of the press would fluctuate according to the will of the legislature. This is, therefore, only a new mode of claiming absolute power over the press.

It is said there is a common law which makes part of the law of the United States, which restrained the press more than the act of Congress has done, and that therefore there is no abridgment of its freedom. What this common law is I cannot conceive, nor have I seen anybody who could explain himself when he

was talking of it. It certainly is not a common law of the United States, acquired, as that of England was, by immemorial usage. The standing of the Government makes this impossible. It cannot be a code of laws adopted because they were universally in use in the States, for the States had no uniform code; and, if they had, it could hardly become, by implication, part of the code of a Government of limited powers, from which every thing is expressly retained which is not given. Is it the law of England, at any particular period, which is adopted? But the nature of the law of England makes it impossible that it should have been adopted in the lump into such a Government as this is, because it was a complete system for the management of all the affairs of a country. It regulated estates, punished all crimes, and, in short, went to all things for which laws were necessary. But how was this law adopted? Was it by the Constitution? If so, it is immutable and incapable of amendment. In what part of the Constitution is it declared to be adopted? Was it adopted by the courts? From whom do they derive their authority? The Constitution, in the clause first cited, relies on Congress to pass all laws neces-

sary to enable the courts to carry their powers into execution ; it cannot, therefore, have been intended to give them a power not necessary to their declared powers. There does not seem to me the smallest pretext for so monstrous an assumption ; on the contrary, while the Constitution is silent about it, every fair inference is against it.

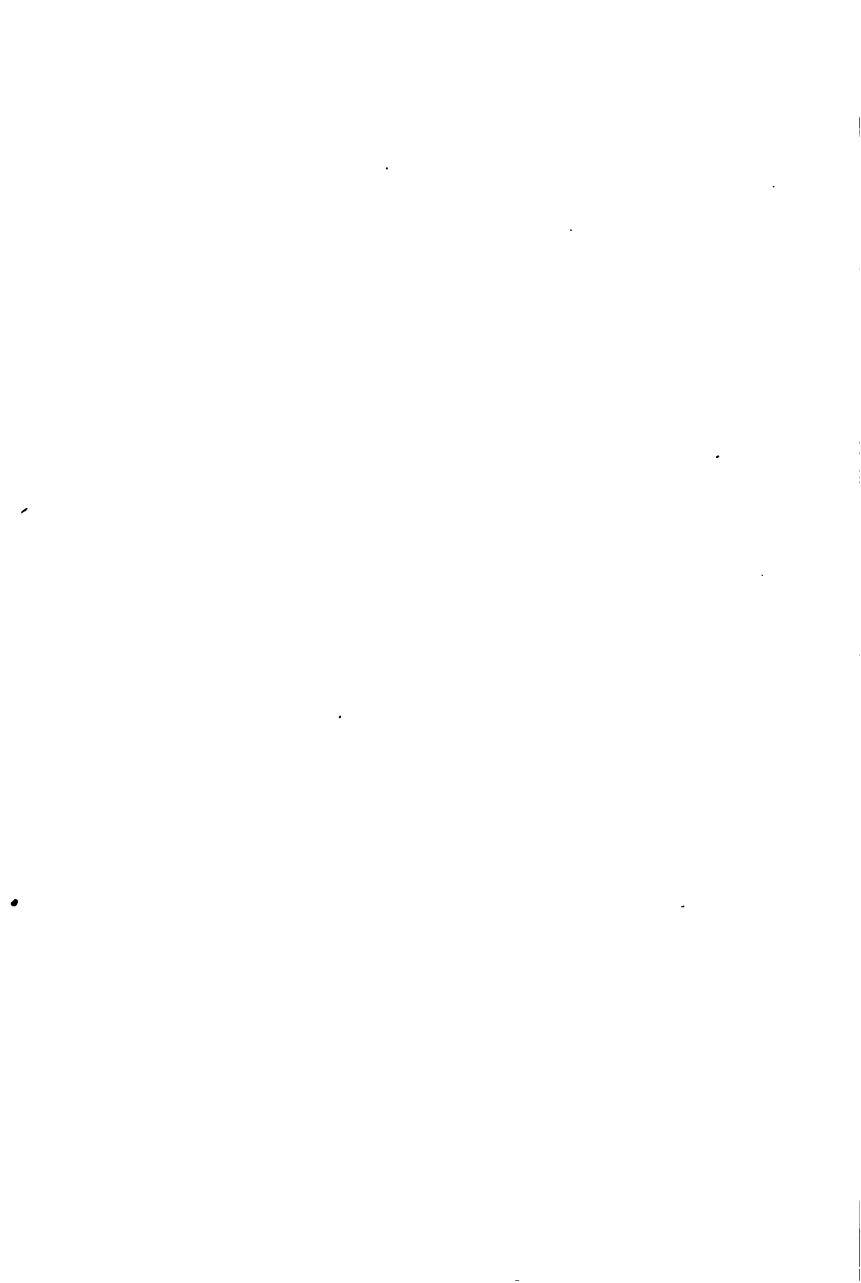
Upon the whole, therefore, I am fully satisfied that no power is given by the Constitution to control the press, and that such laws are expressly prohibited by the amendment. I think it inconsistent with the nature of our Government that its administration should have power to restrain animadversions on public measures, and for protection from private injury from defamation the States are fully competent. It is to them that our officers must look for protection of persons, estates, and every other personal right ; and, therefore, I see no reason why it is not proper to rely upon it for defence against private libels.

III.

THE RISE OF DEMOCRACY.

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THE inaugural address of President Jefferson has been given the first place under this period, notwithstanding the fact that it was not at all an oration. The inaugural addresses of presidents Washington and Adams were really orations, although written, depending for much of their effect on the personal presence of him who delivered the address; that of Jefferson was altogether a business document, sent to be read by the two houses of Congress for their information, and without any of the adjuncts of the orator.

It is impossible, nevertheless, to spare the inaugural address of the first Democratic President, for it is pervaded by a personality which, if quieter in its operation, was more potent in results than the most burning eloquence could

have been. The spirit of modern democracy, which has become, for good or evil, the common characteristic of all American parties and leaders, was here first put into living words. Triumphant in national politics, this spirit now had but one field of struggle, the politics of the States, and here its efforts were for years bent to the abolition of every remnant of limitation on individual liberty. Outside of New England, the change was accomplished as rapidly as the forms of law could be put into the necessary direction; remnants of ecclesiastical government, ecclesiastical taxes of even the mildest description, restrictions on manhood suffrage, State electoral systems, were the immediate victims of the new spirit, and the first term of Mr. Jefferson saw most of the States under democratic governments. Inside of New England, the change was stubbornly resisted, and, for a time, with success. For about twenty years, the general rule was that New England and Delaware were federalist, and the rest of the country was democratic. But even in New

England, a strong democratic minority was growing up, and about 1820 the last barriers of federalism gave way; Connecticut, the federalist "land of steady habits," accepted a new and democratic constitution; Massachusetts modified hers; and the new and reliably democratic State of Maine was brought into existence. The "era of good feeling" signalized the extinction of the federal party and the universal reign of democracy. The length of this period of contest is the strongest testimony to the stubbornness of the New England fibre. Estimated by States, the success of democracy was about as complete in 1803 as in 1817; but it required fifteen years of persistent struggle to convince the smallest section of the Union that it was hopelessly defeated.

The whole period was a succession of great events. The acquisition of Louisiana, stretching from the Mississippi to the Rocky Mountains, laid, in 1803, the foundations of that imperial domain which the steamboat and railroad were to convert to use in after-years. The con-

tinental empire of Napoleon and the island empire of Great Britain drifted into a struggle for life or death which hardly knew a breathing space until the last charge at Waterloo, and from the beginning it was conducted by both combatants with a reckless disregard of international public opinion and neutral rights which is hardly credible but for the official records. Every injury inflicted on neutral commerce by one belligerent was promptly imitated or exceeded by the other, and the two were perfectly in accord in insisting on the convenient doctrine of international law, that, unless neutral rights were enforced by the neutral against one belligerent, the injury became open to the imitation of the other. In the process of imitation, each belligerent took care to pass at least a little beyond the precedent; and thus, beginning with a paper blockade of the northern coast of the continent by the British Government, the process advanced, by alternate "retaliations," to a British proclamation specifying the ports of the world to which American ves-

sels were to be allowed to trade, stopping in England or its dependencies to pay taxes *en route*. These two almost contemporary events, the acquisition of Louisiana and the insolent pretensions of the European belligerents, were the central points of two distinct influences which bore strongly on the development of the United States.

The dominant party, the republicans, had a horror of a national debt which almost amounted to a mania. The associations of the term, derived from their reading of English history, all pointed to a condition of affairs in which the rise of a strong aristocracy was inevitable ; and, to avoid the latter, they were determined to pay off the former. The payment for Louisiana precluded, in their opinion, the support of a respectable navy ; and the remnants of colonialism in their party predisposed them to adopt an ostrich policy instead. The Embargo act was passed in 1807, forbidding all foreign commerce. The evident failure of this act to influence the belligerents brought about

its repeal in 1809, and the substitution of the Non-intercourse act. This prohibited commercial intercourse with England and France until either should revoke its injurious edicts. Napoleon, by an empty and spurious revocation in 1810, induced Congress to withdraw the act in respect to France, keeping it alive in respect to England. England refused to admit the sincerity of the French revocation, to withdraw her Orders in Council, or to cease impressing American seamen. The choice left to the United States was between war and submission

The federalist leaders saw that, while their party strength was confined to a continually decreasing territory, the opposing democracy not only had gained the mass of the original United States, but was swarming toward and beyond the Mississippi. They dropped to the level of a mere party of opposition; they went further until the only article of their political creed was State sovereignty; some of them went one step further, and dabbled in hopeless projects

for secession and the formation of a New England republic of five States. It is difficult to perceive any advantage to public affairs in the closing years of the federal party, except that, by impelling the democratic leaders to really national acts and sympathies, it unwittingly aided in the development of nationality from democracy.

If the essential characteristic of colonialism is the sense of dependence and the desire to imitate, democracy, at least in its earlier phases, begets the opposite qualities. The Congressional elections of 1810-11 showed that the people had gone further in democracy than their leaders. "Submission men" were generally defeated in the election; new leaders, like Clay, Calhoun, and Crawford, made the dominant party a war party, and forced the President into their policy; and the war of 1812 was begun. Its early defeats on land, its startling successes at sea, its financial straits, the desperation of the contest after the fall of Napoleon, and the brilliant victory which crowned its close, all

combined to raise the national feeling to the highest pitch ; and the federalists, whose stock object of denunciation was " Mr. Madison's war," though Mr. Madison was about the most unwilling participant in it, came out of it under the ban of every national sympathy.

The speech of Mr. Quincy, in many points one of the most eloquent of our political history, will show the brightest phase of federalism at its lowest ebb. One can hardly compare it with that of Mr. Clay, which follows it, without noticing the national character of the latter, as contrasted with the lack of nationality of the former. It seems, also, that Mr. Clay's speech carries, in its internal characteristics, sufficient evidence of the natural forces which tended to make democracy a national power, and not a mere adjunct of State sovereignty, wherever the oblique influence of slavery was absent. For this reason, it has been taken as a convenient introduction to the topic which follows, the Rise of Nationality.

THOMAS JEFFERSON,*

OF VIRGINIA.¹

(BORN 1743, DIED 1826.)

INAUGURAL ADDRESS OF THOMAS JEFFERSON, AS
PRESIDENT OF THE UNITED STATES,
MARCH 4, 1801.²

FRIENDS AND FELLOW-CITIZENS :

Called upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow-citizens which is here assembled, to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness, that the task is above my talents, and that I approach it with those anxious and awful presentiments, which the greatness of the charge, and the weakness of my powers, so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in com-

* For notes on Jefferson see Appendix, p. 366.

merce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye; when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. Utterly, indeed, should I despair, did not the presence of many, whom I see here, remind me, that, in the other high authorities provided by our Constitution, I shall find resources of wisdom, of virtue, and of zeal, on which to rely under all difficulties. To you, then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked, amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely, and to speak and to write what they think; but this being now decided by the

voice of the nation, announced according to the rules of the Constitution, all will of course arrange themselves under the will of the law, and unite in common efforts for the common good. All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable ; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression. Let us then, fellow-citizens, unite with one heart and one mind, let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect, that having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little, if we countenance a political intolerance, as despotic, as wicked, and as capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore ; that this should be more felt and feared

by some, and less by others, and should divide opinions as to measures of safety; but every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans; we are all Federalists. If there be any among us who wish to dissolve this Union, or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear, that this government, the world's best hope, may, by possibility, want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said, that man cannot be trusted with the government of himself. Can

he then be trusted with the government of others? Or, have we found angels in the form of kings, to govern him? Let history answer this question.

Let us then, with courage and confidence, pursue our own federal and republican principles; our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradation of the others, possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation, entertaining a due sense of our equal right to the use of our own faculties, to the acquisition of our own industry, to honor and confidence from our fellow-citizens, resulting not from birth, but from our actions and their sense of them, enlightened by a benign religion, professed indeed and practised in various forms, yet all of them inculcating honesty, truth, temperance, gratitude, and the love of man, acknowledging and adoring an overruling Providence, which, by all its dispensations, proves that it delights in the happiness of man here, and his greater happiness hereafter; with all these blessings, what more is necessary to

make us a happy and prosperous people? Still one thing more, fellow-citizens, a wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government ; and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, upon the exercise of duties which comprehend every thing dear and valuable to you, it is proper you should understand what I deem the essential principles of our government, and consequently, those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political ; peace, commerce, and honest friendship with all nations, entangling alliances with none ; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies ; the preser-

vation of the general government in its whole constitutional vigor, as the sheet-anchor of our peace at home and safety abroad ; a jealous care of the right of election by the people, a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided ; absolute acquiescence in the decisions of the majority, the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism ; a well-disciplined militia, our best reliance in peace, and for the first moments of war, till regulars may relieve them ; the supremacy of the civil over the military authority ; economy in the public expense, that labor may be lightly burdened ; the honest payment of our debts, and sacred preservation of the public faith ; encouragement of agriculture, and of commerce as its handmaid ; the diffusion of information, and arraignment of all abuses at the bar of the public reason ; freedom of religion, freedom of the press, and freedom of person, under the protection of the *habeas corpus*, and trial by juries impartially selected. These principles form the bright constellation, which has gone before us, and guided our steps through an age of revolu-

tion and reformation. The wisdom of our sages, and blood of our heroes, have been devoted to their attainment; they should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps, and to regain the road which alone leads to peace, liberty, and safety.

I repair, then, fellow-citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this, the greatest of all, I have learned to expect that it will rarely fall to the lot of imperfect man, to retire from this station with the reputation and the favor which bring him into it. Without pretensions to that high confidence you reposed in our first and greatest revolutionary character, whose pre-eminent services had entitled him to the first place in his country's love, and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your affairs. I shall often go wrong through defect of judgment. When right, I shall often be

thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional; and your support against the errors of others, who may condemn what they would not, if seen in all its parts. The approbation implied by your suffrage, is a great consolation to me for the past; and my future solicitude will be, to retain the good opinion of those who have bestowed it in advance, to conciliate that of others, by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying then on the patronage of your goodwill, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choices it is in your power to make. And may that infinite Power which rules the destinies of the universe, lead our councils to what is best, and give them a favorable issue for your peace and prosperity.

JOHN RANDOLPH,*

OF VIRGINIA.¹

(BORN 1773, DIED 1833.)

ON THE MILITIA BILL—HOUSE OF REPRESENTATIVES,
DEC. 10, 1811.²

MR. SPEAKER :

This is a question, as it has been presented to this House, of peace or war. In that light it has been argued; in no other light can I consider it, after the declarations made by members of the Committee of Foreign Relations * * *

The Committee of Foreign Relations have, indeed, decided that the subject of arming the militia (which has been pressed upon them as indispensable to the public security) does not come within the scope of their authority. On what ground, I have been, and still am, unable to see, they have felt themselves authorized to recommend the raising of standing armies, with a view (as has been declared) of immediate war

* For notes on Randolph see Appendix, p. 368.

—a war not of defence, but of conquest, of aggrandizement, of ambition—a war foreign to the interests of this country; to the interests of humanity itself. * * *

I cannot refrain from smiling at the liberality of the gentleman in giving Canada to New York in order to strengthen the northern balance of power; while, at the same time, he forewarns her that the western scale must preponderate.⁴ I can almost fancy that I see the Capitol in motion toward the falls of Ohio; after a short sojourn, taking its flight to the Mississippi, and finally alighting at Darien; which, when the gentleman's dreams are realized, will be a most eligible seat of government for the new republic (or empire) of the two Americas! But it seems that in 1808 we talked and acted foolishly, and to give some color of consistency to that folly we must now commit a greater.

I hope we shall act a wise part; take warning by our follies since we have become sensible of them, and resolve to talk and act foolishly no more. It is, indeed, high time to give over such preposterous language and proceedings. This war of conquest, a war for the acquisition of territory and subjects, is to be a new com-

mentary on the doctrine that republicans are destitute of ambition ; that they are addicted to peace, wedded to the happiness and safety of the great body of their people. But it seems this is to be a holiday campaign ; there is to be no expense of blood, or of treasure on our part ; Canada is to conquer herself ; she is to be subdued by the principles of fraternity ! The people of that country are first to be seduced from their allegiance and converted into traitors, as preparatory to making them good citizens ! Although I must acknowledge that some of our flaming patriots were thus manufactured, I do not think the process would hold good with a whole community. It is a dangerous experiment. We are to succeed in the French mode, by the system of fraternization—all is French. But how dreadfully it might be retorted on the southern and western slave-holding States. I detest this subornation of treason. No ; if we must have them, let them fall by the valor of our arms ; by fair, legitimate conquest ; not become the victims of treacherous seduction.

I am not surprised at the war spirit which is manifesting itself in gentlemen from the South. In the year 1805-6, in a struggle for the carrying trade of belligerent colonial produce, this country

was most unwisely brought into collision with the great powers of Europe. By a series of most impolitic and ruinous measures, utterly incomprehensible to every rational, sober-minded man, the Southern planters, by their own votes, have succeeded in knocking down the price of cotton to seven cents, and of tobacco (a few choice crops excepted) to nothing; and in raising the price of blankets (of which a few would not be amiss in a Canadian campaign), coarse woollens, and every article of first necessity, three or four hundred *per centum*. And now, that by our own acts, we have brought ourselves into this unprecedented condition, we must get out of it in any way, but by an acknowledgment of our own want of wisdom and forecast. But is war the true remedy? Who will profit by it? Speculators; a few lucky merchants, who draw prizes in the lottery; commissaries and contractors. Who must suffer by it? The people. It is their blood, their taxes that must flow to support it. * * *

I am gratified to find gentlemen acknowledging the demoralizing and destructive consequences of the non-importation law; confessing the truth of all that its opponents foretold,

when it was enacted. And will you plunge yourselves in war, because you have passed a foolish and ruinous law, and are ashamed to repeal it? "But our good friend, the French emperor, stands in the way of its repeal, and we cannot go too far in making sacrifices to him, who has given such demonstration of his love for the Americans; we must, in point of fact, become parties to his war. Who can be so cruel as to refuse him that favor?" My imagination shrinks from the miseries of such a connection. I call upon the House to reflect, whether they are not about to abandon all reclamation for the unparalleled outrages, "insults, and injuries" of the French government; to give up our claim for plundered millions; and I ask what reparation or atonement they can expect to obtain in hours of future dalliance, after they shall have made a tender of their person to this great deflowerer of the virginity of republics. We have, by our own wise (I will not say wiseacre) measures, so increased the trade and wealth of Montreal and Quebec, that at last we begin to cast a wistful eye at Canada. Having done so much toward its improvement, by the exercise of "our restrictive energies," we begin to think the laborer worthy

of his hire, and to put in a claim for our portion. Suppose it ours, are we any nearer to our point? As his minister said to the king of Epirus, "May we not as well take our bottle of wine before as after this exploit?" Go! march to Canada! leave the broad bosom of the Chesapeake and her hundred tributary rivers; the whole line of sea-coast from Machias to St. Mary's, unprotected! You have taken Quebec—have you conquered England? Will you seek for the deep foundations of her power in the frozen deserts of Labrador?

" Her march is on the mountain wave,
Her home is on the deep ! "

Will you call upon her to leave your ports and harbors untouched only just till you can return from Canada, to defend them? The coast is to be left defenceless, while men of the interior are revelling in conquest and spoil. * * *

No sooner was the report laid on the table, than the vultures were flocking around their prey—the carcass of a great military establishment. Men of tainted reputation, of broken fortune (if they ever had any), and of battered constitutions, "choice spirits tired of the dull pursuits of civil life," were seeking after agen-

cies and commissions, willing to doze in gross stupidity over the public fire; to light the public candle at both ends. Honorable men undoubtedly there are ready to serve their country; but what man of spirit, or of self-respect, will accept a commission in the present army? The gentleman from Tennessee (Mr. Grundy) addressed himself yesterday exclusively to the "Republicans of the House." I know not whether I may consider myself as entitled to any part of the benefit of the honorable gentleman's discourse. It belongs not, however, to that gentleman to decide. If we must have an exposition of the doctrines of republicanism, I shall receive it from the fathers of the church, and not from the junior apprentices of the law. I shall appeal to my worthy friends from Carolina (Messrs. Macon and Stanford), "men with whom I have measured my strength," by whose side I have fought during the reign of terror; for it was indeed an hour of corruption, of oppression, of pollution. It was not at all to my taste—that sort of republicanism which was supported, on this side of the Atlantic, by the father of the sedition law, John Adams, and by Peter Porcupine on the other.' Republicanism! of John Adams and William Cobbett! * * *

Gallant crusaders in the holy cause of republicanism. Such "republicanism does, indeed, mean any thing or nothing." Our people will not submit to be taxed for this war of conquest and dominion. The government of the United States was not calculated to wage offensive foreign war ; it was instituted for the common defence and the general welfare ; and whosoever should embark it in a war of offence, would put it to a test which it is by no means calculated to endure. Make it out that Great Britain has instigated the Indians on a late occasion, and I am ready for battle, but not for dominion. I am unwilling, however, under present circumstances, to take Canada, at the risk of the Constitution, to embark in a common cause with France, and be dragged at the wheels of the car of some Burr or Bonaparte. For a gentleman from Tennessee, or Genesee, or Lake Champlain, there may be some prospect of advantage. Their hemp would bear a great price by the exclusion of foreign supply. In that, too, the great importers are deeply interested. The upper country of the Hudson and the lakes would be enriched by the supplies for the troops, which they alone could furnish. They would have the exclusive market ; to say nothing of

the increased preponderance from the acquisition of Canada and that section of the Union, which the Southern and Western States have already felt so severely in the Apportionment bill. * * *

Permit me now, sir, to call your attention to the subject of our black population. I will touch this subject as tenderly as possible. It is with reluctance that I touch it at all; but in cases of great emergency, the State physician must not be deterred by a sickly, hysterical humanity, from probing the wound of his patient; he must not be withheld by a fastidious and mistaken delicacy from representing his true situation to his friends, or even to the sick man himself, when the occasion calls for it. What is the situation of the slave-holding States? During the war of the Revolution, so fixed were their habits of subordination, that while the whole country was overrun by the enemy, who invited them to desert, no fear was ever entertained of an insurrection of the slaves. During a war of seven years, with our country in possession of the enemy, no such danger was ever apprehended. But should we, therefore, be unobservant spectators of the progress of society within the last twenty years; of the

silent but powerful change wrought, by time and chance, upon its composition and temper? When the fountains of the great deep of abomination were broken up, even the poor slaves did not escape the general deluge. The French Revolution has polluted even them. * * *

Men, dead to the operation of moral causes, have taken away from the poor slave his habit of loyalty and obedience to his master, which lightened his servitude by a double operation; beguiling his own cares and disarming his master's suspicions and severity; and now, like true empirics in politics, you are called upon to trust to the mere physical strength of the fetter which holds him in bondage. You have deprived him of all moral restraint; you have tempted him to eat of the fruit of the tree of knowledge, just enough to perfect him in wickedness; you have opened his eyes to his nakedness; you have armed his nature against the hand that has fed, that has clothed him, that has cherished him in sickness; that hand which before he became a pupil of your school, he had been accustomed to press with respectful affection. You have done all this—and then show him the gibbet and the wheel, as incentives to a sullen, repugnant obedience. God

forbid, sir, that the Southern States should ever see an enemy on their shores, with these infernal principles of French fraternity in the van. While talking of taking Canada, some of us are shuddering for our own safety at home. I speak from facts, when I say, that the night-bell never tolls for fire in Richmond, that the mother does not hug her infant more closely to her bosom. I have been a witness of some of the alarms in the capital of Virginia. * * * ¹⁰

Against whom are these charges brought? Against men, who in the war of the Revolution were in the councils of the nation, or fighting the battles of your country. And by whom are they made? By runaways chiefly from the British dominions, since the breaking out of the French troubles. It is insufferable. It cannot be borne. It must and ought, with severity, to be put down in this House; and out of it to meet the lie direct. We have no fellow-feeling for the suffering and oppressed Spaniards! Yet even them we do not reprobate. Strange! that we should have no objection to any other people or government, civilized or savage, in the whole world! The great autocrat of all the Russias receives the homage of our high consideration. The Dey of Algiers

and his divan of pirates are very civil, good sort of people, with whom we find no difficulty in maintaining the relations of peace and amity. "Turks, Jews, and infidels"; Melimelli or the Little Turtle; barbarians and savages of every clime and color, are welcome to our arms. With chiefs of banditti, negro or mulatto, we can treat and trade. Name, however, but England, and all our antipathies are up in arms against her. Against whom? Against those whose blood runs in our veins; in common with whom, we claim Shakespeare, and Newton, and Chatham, for our countrymen; whose form of government is the freest on earth, our own only excepted; from whom every valuable principle of our own institutions has been borrowed—representation, jury trial, voting the supplies, writ of habeas corpus, our whole civil and criminal jurisprudence;—against our fellow Protestants, identified in blood, in language, in religion, with ourselves. In what school did the worthies of our land, the Washingtons, Henrys, Hancocks, Franklins, Rutledges of America, learn those principles of civil liberty which were so nobly asserted by their wisdom and valor? American reistance to British usurpation has not been more warmly cherished

by these great men and their compatriots; not more by Washington, Hancock, and Henry, than by Chatham and his illustrious associates in the British Parliament. It ought to be remembered, too, that the heart of the English people was with us. It was a selfish and corrupt ministry, and their servile tools, to whom we were not more opposed than they were. I trust that none such may ever exist among us; for tools will never be wanting to subserve the purposes, however ruinous or wicked, of kings and ministers of state. I acknowledge the influence of a Shakespeare and a Milton upon my imagination, of a Locke upon my understanding, of a Sidney upon my political principles, of a Chatham upon qualities which, would to God I possessed in common with that illustrious man! of a Tillotson, a Sherlock, and a Porteus upon my religion. This is a British influence which I can never shake off. I allow much to the just and honest prejudices growing out of the Revolution. But by whom have they been suppressed, when they ran counter to the interests of my country? By Washington. By whom, would you listen to them, are they most keenly felt? By felons escaped from the jails of Paris, Newgate, and Kilmainham, since the

breaking out of the French Revolution ; who, in this abused and insulted country, have set up for political teachers, and whose disciples give no other proof of their progress in republicanism, except a blind devotion to the most ruthless military despotism that the world ever saw. These are the patriots, who scruple not to brand with the epithet of Tory, the men (looking toward the seat of Col. Stewart) by whose blood your liberties have been cemented. These are they, who hold in such keen remembrance the outrages of the British armies, from which many of them are deserters. Ask these self-styled patriots where they were during the American war (for they are, for the most part, old enough to have borne arms), and you strike them dumb ; their lips are closed in eternal silence. If it were allowable to entertain partialities, every consideration of blood, language, religion, and interest, would incline us toward England : and yet, shall they alone be extended to France and her ruler, whom we are bound to believe a chastening God suffers as the scourge of a guilty world ! On all other nations he tramples ; he holds them in contempt ; England alone he hates ; he would, but he cannot, despise her ; fear cannot despise ; and shall we disparage our ancestors ?

But the outrages and injuries of England—bred up in the principles of the Revolution—I can never palliate, much less defend them. I well remember flying, with my mother and her new-born child, from Arnold and Philips; and we were driven by Tarleton and other British Pandours from pillar to post, while her husband was fighting the battles of his country. The impression is indelible on my memory; and yet (like my worthy old neighbor, who added seven buckshot to every cartridge at the battle of Guilford, and drew fine sight at his man) I must be content to be called a Tory by a patriot of the last importation. Let us not get rid of one evil (supposing it possible) at the expense of a greater; *mutatis mutandis*, suppose France in possession of the British naval power—and to her the trident must pass should England be unable to wield it—what would be your condition? What would be the situation of your seaports, and their seafaring inhabitants? Ask Hamburg, Lubec! Ask Savannah! * * *

Shall republicans become the instruments of him who has effaced the title of Attila to the “scourge of God!” Yet, even Attila, in the falling fortunes of civilization, had, no doubt, his advocates, his tools, his minions, his para-

sites, in the very countries that he overran; sons of that soil whereon his horse had trod; where grass could never after grow. If perfectly fresh, instead of being as I am, my memory clouded, my intellect stupefied, my strength and spirits exhausted, I could not give utterance to that strong detestation which I feel toward (above all other works of the creation) such characters as Gengis, Tamerlane, Kouli-Khan, or Bonaparte. My instincts involuntarily revolt at their bare idea. Malefactors of the human race, who have ground down man to a mere machine of their impious and bloody ambition! Yet under all the accumulated wrongs, and insults, and robberies of the last of these chieftains, are we not, in point of fact, about to become a party to his views, a partner in his wars? * * *

I call upon those professing to be republicans to make good the promises, held out by their republican predecessors, when they came into power; promises which, for years afterward, they honestly, faithfully fulfilled. We have vaunted of paying off the national debt, of retrenching useless establishments; and yet have now become as infatuated with standing armies, loans, taxes, navies, and war as ever were the Essex Junto!

JOSIAH QUINCY,*
OF MASSACHUSETTS.¹

(BORN 1772, DIED 1864.)

ON THE ADMISSION OF LOUISIANA²—HOUSE OF
REPRESENTATIVES, JAN. 14, 1811.

MR. SPEAKER :

I address you, sir, with anxiety and distress of mind, with me, wholly unprecedented. The friends of this bill seem to consider it as the exercise of a common power ; as an ordinary affair ; a mere municipal regulation, which they expect to see pass without other questions than those concerning details. But, sir, the principle of this bill materially affects the liberties and rights of the whole people of the United States. To me it appears that it would justify a revolution in this country ; and that, in no great length of time it may produce it. When I see the zeal and perseverance with which this bill has been urged along its parliamentary path, when I know the local interests and associ-

* For notes on Quincy see Appendix, p. 372.

ated projects which combine to promote its success, all opposition to it seems manifestly unavailing. I am almost tempted to leave, without a struggle, my country to its fate. But, sir, while there is life, there is hope. So long as the fatal shaft has not yet sped, if Heaven so will, the bow may be broken and the vigor of the mischief-meditating arm withered. If there be a man in this House or nation, who cherishes the Constitution, under which we are assembled, as the chief stay of his hope, as the light which is destined to gladden his own day, and to soften even the gloom of the grave, by the prospects it sheds over his children, I fall not behind him in such sentiments. I will yield to no man in attachment to this Constitution, in veneration for the sages who laid its foundations, in devotion to those principles which form its cement and constitute its proportions. What then must be my feelings; what ought to be the feelings of a man, cherishing such sentiments, when he sees an act contemplated which lays ruin at the foot of all these hopes? When he sees a principle of action about to be usurped, before the operation of which the bands of this Constitution are no more than flax before the fire, or stubble be-

fore the whirlwind? When this bill passes, such an act is done ; and such a principle is usurped.

Mr. Speaker, there is a great rule of human conduct, which he who honestly observes, cannot err widely from the path of his sought duty. It is, to be very scrupulous concerning the principles you select as the test of your rights and obligations ; to be very faithful in noticing the result of their application ; and to be very fearless in tracing and exposing their immediate effects and distant consequences. Under the sanction of this rule of conduct, I am compelled to declare *it as my deliberate opinion, that, if this bill passes, the bonds of this union are, virtually, dissolved ; that the States which compose it are free from their moral obligations, and that as it will be the right of all, so it will be the duty of some, to prepare, definitely, for a separation : amicably, if they can ; violently, if they must.*^a

(Mr. Quincy was here called to order by Mr. Poindexter, delegate from the Mississippi territory, for the words in italics. After it was decided, upon an appeal to the House, that Mr. Quincy was in order, he proceeded.)

I rejoice, Mr. Speaker, at the result of this appeal. Not from any personal consideration, but from the respect paid to the essential rights

of the people, in one of their representatives. When I spoke of the separation of the States, as resulting from the violation of the Constitution contemplated in this bill, I spoke of it as a necessity, deeply to be deprecated; but as resulting from causes so certain and obvious as to be absolutely inevitable, when the effect of the principle is practically experienced. It is to preserve, to guard the Constitution of my country, that I denounce this attempt. I would rouse the attention of gentlemen from the apathy with which they seem beset. These observations are not made in a corner; there is no low intrigue; no secret machination. I am on the people's own ground; to them I appeal concerning their own rights, their own liberties, their own intent, in adopting this Constitution. The voice I have uttered, at which gentlemen startle with such agitation, is no unfriendly voice. I intended it as a voice of warning. By this people, and by the event, if this bill passes, I am willing to be judged, whether it be not a voice of wisdom.

The bill which is now proposed to be passed has this assumed principle for its basis; that the three branches of this national government, without recurrence to conventions of the peo-

ple in the States, or to the Legislatures of the States, are authorized to admit new partners to a share of the political power, in countries out of the original limits of the United States. Now, this assumed principle, I maintain to be altogether without any sanction in the Constitution. I declare it to be a manifest and atrocious usurpation of power; of a nature, dissolving, according to undeniable principles of moral law, the obligations of our national compact; and leading to all the awful consequences which flow from such a state of things. Concerning this assumed principle, which is the basis of this bill, this is the general position, on which I rest my argument; that if the authority, now proposed to be exercised, be delegated to the three branches of the government by virtue of the Constitution, it results either from its general nature, or from its particular provisions. I shall consider distinctly both these sources, in relation to this pretended power.

Touching the general nature of the instrument called the Constitution of the United States there is no obscurity; it has no fabled descent, like the palladium of ancient Troy, from the heavens. Its origin is not confused by the mists of time, or hidden by the darkness

of passed, unexplored ages; it is the fabric of our day. Some now living, had a share in its construction; all of us stood by, and saw the rising of the edifice. There can be no doubt about its nature. It is a political compact.⁴ By whom? And about what? The preamble to the instrument will answer these questions.

“We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution, for the United States of America.”

It is, we the people of the United States, for ourselves and our posterity; not for the people of Louisiana; nor for the people of New Orleans or of Canada. None of these enter into the scope of the instrument; it embraces only “the United States of America.” Who these are, it may seem strange in this place to inquire. But truly, sir, our imaginations have, of late, been so accustomed to wander after new settlements to the very ends of the earth, that it will not be time ill spent to inquire what this phrase means, and what it includes. These are

not terms adopted at hazard ; they have reference to a state of things existing anterior to the Constitution. When the people of the present United States began to contemplate a severance from their parent State, it was a long time before they fixed definitely the name by which they would be designated. In 1774, they called themselves "the Colonies and Provinces of North America." In 1775, "the Representatives of the United Colonies of North America." In the Declaration of Independence, "the Representatives of the United States of America." And finally, in the articles of confederation, the style of the confederacy is declared to be "the United States of America." It was with reference to the old articles of confederation, and to preserve the identity and established individuality of their character, that the preamble to this Constitution, not content, simply, with declaring that it is "we the people of the United States," who enter into this compact, adds that it is for "the United States of America." Concerning the territory contemplated by the people of the United States, in these general terms, there can be no dispute ; it is settled by the treaty of peace, and included within the Atlantic Ocean, the St. Croix, the

lakes, and more precisely, so far as relates to the frontier, having relation to the present argument, within "a line to be drawn through the middle of the river Mississippi, until it intersect the northernmost part of the thirty-first degree of north latitude, thence within a line drawn due east on this degree of latitude to the river Apalachicola, thence along the middle of this river to its junction with the Flint River, thence straight to the head of the St. Mary's River, and thence down the St. Mary's to the Atlantic Ocean."

I have been thus particular to draw the minds of gentlemen, distinctly, to the meaning of the terms used in the preamble; to the extent which "the United States" then included; and to the fact, that neither New Orleans, nor Louisiana, was within the comprehension of the terms of this instrument. It is sufficient for the present branch of my argument to say, that there is nothing, in the general nature of this compact, from which the power, contemplated to be exercised in this bill, results. On the contrary, as the introduction of a new associate in political power implies, necessarily, a new division of power, and consequent diminution of the relative proportion of the former proprietors

of it, there can, certainly, be nothing more obvious, than that from the general nature of the instrument no power can result to diminish and give away, to strangers, any proportion of the rights of the original partners. If such a power exist, it must be found, then, in the particular provisions in the Constitution. The question now arising is, in which of these provisions is given the power to admit new States, to be created in territories beyond the limits of the old United States. If it exist anywhere, it is either in the third section of the fourth article of the Constitution, or in the treaty-making power. If it result from neither of these, it is not pretended to be found anywhere else.

That part of the third section of the fourth article, on which the advocates of this bill rely, is the following: "New States may be admitted by the Congress, into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

I know, Mr. Speaker, that the first clause of this paragraph has been read, with all the su-

perciliousness of a grammarian's triumph—"New States may be admitted by the Congress into this Union,"—accompanied with this most consequential inquiry: "Is not this a new State to be admitted? And is there not here an express authority?" I have no doubt this is a full and satisfactory argument to every one who is content with the mere colors and superficies of things. And if we were now at the bar of some stall-fed justice, the inquiry would insure the victory to the maker of it, to the manifest delight of the constables and suitors of his court. But, sir, we are now before the tribunal of the whole American people; reasoning concerning their liberties, their rights, their Constitution. These are not to be made the victims of the inevitable obscurity of general terms; nor the sport of verbal criticism. The question is concerning the intent of the American people, the proprietors of the old United States, when they agreed to this article. Dictionaries and spelling-books are here of no authority. Neither Johnson, nor Walker, nor Webster, nor Dilworth, has any voice in this matter. Sir, the question concerns the proportion of power reserved, by this Constitution, to every State in this Union. Have the three branches of this

government a right, at will, to weaken and outweigh the influence, respectively secured to each State in this compact, by introducing, at pleasure, new partners, situate beyond the old limits of the United States? The question has not relation merely to New Orleans. The great objection is to the principle of the bill. If this principle be admitted, the whole space of Louisiana, greater, it is said, than the entire extent of the old United States, will be a mighty theatre, in which this government assumes the right of exercising this unparalleled power. And it will be ; there is no concealment, it is intended to be exercised. Nor will it stop until the very name and nature of the old partners be overwhelmed by new-comers into the confederacy. Sir, the question goes to the very root of the power and influence of the present members of this Union. The real intent of this article, is, therefore, an injury of most serious import ; and is to be settled only by a recurrence to the known history and known relations of this people and their Constitution. These, I maintain, support this position, that the terms "new States," in this article, do not intend new political sovereignties, with territorial annexations, to be created without the original limits of the United States. * * *

But there is an argument stronger even than all those which have been produced, to be drawn from the nature of the power here proposed to be exercised. Is it possible that such a power, if it had been intended to be given by the people, should be left dependent upon the effect of general expressions, and such, too, as were obviously applicable to another subject, to a particular exigency contemplated at that time? Sir, what is this power we propose now to usurp? Nothing less than a power changing all the proportions of the weight and influence possessed by the potent sovereignties composing this Union. A stranger is to be introduced to an equal share without their consent. Upon a principle pretended to be deduced from the Constitution, this government, after this bill passes, may and will multiply foreign partners in power at its own mere motion; at its irresponsible pleasure; in other words, as local interests, party passions, or ambitious views may suggest. It is a power that from its nature never could be delegated; never was delegated; and as it breaks down all the proportions of power guaranteed by the Constitution to the States, upon which their essential security depends, utterly annihilates the moral force of this

political conduct. Would this people, so wisely vigilant concerning their rights, have transferred to Congress a power to balance, at its will, the political weight of any one State, much more of all the States, by authorizing it to create new States, at its pleasure, in foreign countries, not pretended to be within the scope of the Constitution, or the conception of the people at the time of passing it? This is not so much a question concerning the exercise of sovereignty, as it is who shall be sovereign—whether the proprietors of the good old United States shall manage their own affairs in their own way; or whether they, and their Constitution, and their political rights, shall be trampled under foot by foreigners, introduced through a breach of the Constitution. The proportion of the political weight of each sovereign State constituting this Union depends upon the number of the States which have voice under the compact. This number the Constitution permits us to multiply at pleasure within the limits of the original United States, observing only the expressed limitations in the Constitution. But when, in order to increase your power of augmenting this number, you pass the old limits, you are guilty of a violation of the Constitu-

tion in a fundamental point ; and in one, also, which is totally inconsistent with the intent of the contract and the safety of the States which established the association. What is the practical difference to the old partners whether they hold their liberties at the will of a master, or whether by admitting exterior States on an equal footing with the original States, arbiters are constituted, who, by availing themselves of the contrariety of interests and views, which in such a confederacy necessarily will arise, hold the balance among the parties which exist and govern us by throwing themselves into the scale most conformable to their purpose? In both cases there is an effective despotism. But the last is the more galling, as we carry the chain in the name and gait of freemen.

I have thus shown, and whether fairly, I am willing to be judged by the sound discretion of the American people, that the power proposed to be usurped in this bill, results neither from the general nature nor the particular provisions of the Federal Constitution ; and that it is a palpable violation of it in a fundamental point ; whence flow all the consequences I have indicated.

“But,” says the gentleman from Tennessee

(Mr. Rhea), "these people have been seven years citizens of the United States." I deny it, sir. As citizens of New Orleans, or of Louisiana, they never have been, and by the mode proposed they never will be, citizens of the United States. They may girt upon us for a moment, but no real cement can grow from such an association. What the real situation of the inhabitants of those foreign countries is, I shall have occasion to show presently. "But," says the same gentleman: "if I have a farm, have not I a right to purchase another farm, in my neighborhood, and settle my sons upon it, and in time admit them to a share in the management of my household?" Doubtless, sir. But are these cases parallel? Are the three branches of this government owners of this farm, called the United States? I desire to thank heaven they are not. I hold my life, liberty, and property, and the people of the State from which I have the honor to be a representative hold theirs, by a better tenure than any this National Government can give. Sir, I know your virtue. And I thank the Great Giver of every good gift, that neither the gentleman from Tennessee, nor his comrades, nor any, nor all the members of this House, nor of the other branch of the Legisla-

ture, nor the good gentleman who lives in the palace yonder, nor all combined, can touch these my essential rights, and those of my friends and constituents, except in a limited and prescribed form. No, sir. We hold these by the laws, customs, and principles of the commonwealth of Massachusetts. Behind her ample shield, we find refuge, and feel safety. I beg gentlemen not to act upon the principle, that the commonwealth of Massachusetts is their farm.*

“But,” the gentleman adds, “what shall we do, if we do not admit the people of Louisiana into our Union? Our children are settling that country.” Sir, it is no concern of mine what he does. Because his children have run wild and uncovered into the woods, is that a reason for him to break into my house, or the houses of my friends, to filch our children’s clothes, in order to cover his children’s nakedness. This Constitution never was, and never can be, strained to lap over all the wilderness of the West, without essentially affecting both the rights and convenience of its real proprietors. It was never constructed to form a covering for the inhabitants of the Missouri and Red River country. And whenever it is attempted

to be stretched over them, it will rend asunder. I have done with this part of my argument. It rests upon this fundamental principle, that the proportion of political power, subject only to internal modifications, permitted by the Constitution, is an unalienable, essential, intangible right. When it is touched, the fabric is annihilated ; for, on the preservation of these proportions, depend our rights and liberties.

If we recur to the known relations existing among the States at the time of the adoption of this Constitution, the same conclusions will result. The various interests, habits, manners, prejudices, education, situation, and views, which excited jealousies and anxieties in the breasts of some of our most distinguished citizens, touching the result of the proposed Constitution, were potent obstacles to its adoption. The immortal leader of our Revolution, in his letter to the President of the old Congress, written as president of the convention which formed this compact, thus speaks on this subject: " It is at all times difficult to draw, with precision, the line between those rights which must be surrendered, and those which may be reserved ; and on the present occasion this difficulty was increased by a difference

among the several States, as to their situation, extent, habits, and particular interests."

The debates of that period will show that the effect of the slave votes upon the political influence of this part of the country, and the anticipated variation of the weight of power to the West, were subjects of great and just jealousy to some of the best patriots in the Northern and Eastern States. Suppose, then, that it had been distinctly foreseen that, in addition to the effect of this weight, the whole population of a world beyond the Mississippi was to be brought into this and the other branch of the Legislature, to form our laws, control our rights, and decide our destiny. Sir, can it be pretended that the patriots of that day would for one moment have listened to it? They were not madmen. They had not taken degrees at the hospital of idiocy. They knew the nature of man, and the effect of his combinations in political societies. They knew that when the weight of particular sections of a confederacy was greatly unequal, the resulting power would be abused ; that it was not in the nature of man to exercise it with moderation. The very extravagance of the intended use is a conclusive evidence against the possi-

bility of the grant of such a power as is here proposed. `Why, sir, I have already heard of six States, and some say there will be, at no great distance of time, more. I have also heard that the mouth of the Ohio will be far to the east of the centre of the contemplated empire. If the bill is passed, the principle is recognized. All the rest are mere questions of expediency. It is impossible such a power could be granted. It was not for these men that our fathers fought. It was not for them this Constitution was adopted. You have no authority to throw the rights and liberties and property of this people into "hotch-pot" with the wild men on the Missouri, nor with the mixed, though more respectable, race of Anglo-Hispano-Gallo-Americans, who bask on the sands in the mouth of the Mississippi. I make no objection to these from their want of moral qualities or political light. The inhabitants of New Orleans are, I suppose, like those of all other countries, some good, some bad, some indifferent.* * *

I will add only a few words, in relation to the moral and political consequences of usurping this power. I have said that it would be a virtual dissolution of the Union; and gentlemen express great sensibility at the expression.

But the true source of terror is not the declaration I have made, but the deed you propose. Is there a moral principle of public law better settled, or more conformable to the plainest suggestions of reason, than that the violation of a contract by one of the parties may be considered as exempting the other from its obligations? Suppose, in private life, thirteen form a partnership, and ten of them undertake to admit a new partner without the concurrence of the other three, would it not be at their option to abandon the partnership, after so palpable an infringement of their rights? How much more, in the political partnership, where the admission of new associates, without previous authority, is so pregnant with obvious dangers and evils! Again, it is settled as a principle of morality, among writers on public law, that no person can be obliged, beyond his intent at the time of contract. Now who believes, who dare assert, that it was the intention of the people, when they adopted this Constitution, to assign, eventually, to New Orleans and Louisiana, a portion of their political power; and to invest all the people those extensive regions might hereafter contain, with an authority over themselves and their descendants? When you throw

the weight of Louisiana into the scale, you destroy the political equipoise contemplated at the time of forming the contract. Can any man venture to affirm that the people did intend such a comprehension as you now, by construction, give it? Or can it be concealed that, beyond its fair and acknowledged intent, such a compact has no moral force? If gentlemen are so alarmed at the bare mention of the consequences, let them abandon a measure which, sooner or later, will produce them. How long before the seeds of discontent will ripen, no man can foretell. But it is the part of wisdom not to multiply or scatter them. Do you suppose the people of the Northern and Atlantic States will, or ought to, look on with patience and see Representatives and Senators, from the Red River and Missouri, pouring themselves upon this and the other floor, managing the concerns of a sea-board fifteen hundred miles, at least, from their residence; and having a preponderancy in councils, into which, constitutionally, they could never have been admitted? I have no hesitation upon this point. They neither will see it, nor ought to see it, with content. It is the part of a wise man to foresee danger and to hide himself. This great usurpation, which

creeps into this House, under the plausible appearance of giving content to that important point, New Orleans, starts up a gigantic power to control the nation. Upon the actual condition of things, there is, there can be, no need of concealment. It is apparent to the blindest vision. By the course of nature, and conformable to the acknowledged principles of the Constitution, the sceptre of power, in this country, is passing toward the Northwest. Sir, there is to this no objection. The right belongs to that quarter of the country. Enjoy it ; it is yours. Use the powers granted as you please. But take care, in your haste after effectual dominion, not to overload the scale by heaping it with these new acquisitions. Grasp not too eagerly at your purpose. In your speed after uncontrolled sway, trample not down this Constitution. * * *

New States are intended to be formed beyond the Mississippi. There is no limit to men's imaginations, on this subject, short of California and Columbia River. When I said that the bill would justify a revolution and would produce it, I spoke of its principle and its practical consequences. To this principle and those consequences I would call the attention of this

House and nation. If it be about to introduce a condition of things absolutely insupportable, it becomes wise and honest men to anticipate the evil, and to warn and prepare the people against the event. I have no hesitation on the subject. The extension of this principle to the States contemplated beyond the Mississippi, cannot, will not, and ought not to be borne. And the sooner the people contemplate the unavoidable result the better; the more hope that the evils may be palliated or removed.

Mr. Speaker, what is this liberty of which so much is said? Is it to walk about this earth, to breathe this air, to partake the common blessings of God's providence? The beasts of the field and the birds of the air unite with us in such privileges as these. But man boasts a purer and more ethereal temperature. His mind grasps in its view the past and future, as well as the present. We live not for ourselves alone. That which we call liberty is that principle on which the essential security of our political condition depends. It results from the limitations of our political system, prescribed in the Constitution. These limitations, so long as they are faithfully observed, maintain order, peace, and safety. When they are

violated, in essential particulars, all the concurrent spheres of authority rush against each other ; and disorder, derangement, and convulsion are, sooner or later, the necessary consequences.

With respect to this love of our Union, concerning which so much sensibility is expressed, I have no fears about analyzing its nature. There is in it nothing of mystery. It depends upon the qualities of that Union, and it results from its effects upon our and our country's happiness. It is valued for "that sober certainty of waking bliss" which it enables us to realize. It grows out of the affections, and has not, and cannot be made to have, any thing universal in its nature. Sir, I confess it : the first public love of my heart is the Commonwealth of Massachusetts. There is my fireside ; there are the tombs of my ancestors—

"Low lies that land, yet blest with fruitful stores,
Strong are her sons, though rocky are her shores ;
And none, ah ! none, so lovely to my sight,
Of all the lands which heaven o'erspreads with light."

The love of this Union grows out of this attachment to my native soil, and is rooted in it. I cherish it, because it affords the best external

hope of her peace, her prosperity, her independence. I oppose this bill from no animosity to the people of New Orleans ; but from the deep conviction that it contains a principle incompatible with the liberties and safety of my country. I have no concealment of my opinion. The bill, if it passes, is a death-blow to the Constitution. It may, afterward, linger ; but, lingering, its fate will, at no very distant period, be consummated.

HENRY CLAY,*

OF KENTUCKY.¹

(BORN 1777, DIED 1852.)

ON THE WAR OF 1812—HOUSE OF REPRESENTATIVES

JAN. 8, 1813.²

SIR, gentlemen appear to me to forget that they stand on American soil ; that they are not in the British House of Commons, but in the chamber of the House of Representatives of the United States ; that we have nothing to do with the affairs of Europe, the partition of territory and sovereignty there, except so far as these things affect the interests of our own country. Gentlemen transform themselves into the Burkes, Chathams, and Pitts of another country, and, forgetting, from honest zeal, the interests of America, engage with European sensibility in the discussion of European interests. If gentlemen ask me whether I do not view with regret and horror the concentration of such vast power in the hands of Bona-

* For notes on Clay see Appendix, p. 376.

parte, I reply that I do. I regret to see the Emperor of China holding such immense sway over the fortunes of millions of our species. I regret to see Great Britain possessing so uncontrolled a command over all the waters of the globe. If I had the ability to distribute among the nations of Europe their several portions of power and of sovereignty, I would say that Holland should be resuscitated and given the weight she enjoyed in the days of her De Witts. I would confine France within her natural boundaries, the Alps, Pyrenees, and the Rhine, and make her a secondary naval power only. I would abridge the British maritime power, raise Prussia and Austria to their original condition, and preserve the integrity of the Empire of Russia. But these are speculations. I look at the political transactions of Europe, with the single exception of their possible bearing upon us, as I do at the history of other countries and other times. I do not survey them with half the interest that I do the movements in South America. Our political relation with them is much less important than it is supposed to be. I have no fears of French or English subjugation. If we are united we are too powerful for the mightiest nation in Europe or all Europe

combined. If we are separated and torn asunder, we shall become an easy prey to the weakest of them. In the latter dreadful contingency our country will not be worth preserving.

Next to the notice which the opposition has found itself called upon to bestow upon the French Emperor, a distinguished citizen of Virginia, formerly President of the United States, has never for a moment failed to receive their kindest and most respectful attention. An honorable gentleman from Massachusetts (Mr. Quincy), of whom I am sorry to say it becomes necessary for me, in the course of my remarks, to take some notice, has alluded to him in a remarkable manner. Neither his retirement from public office, his eminent services, nor his advanced age, can exempt this patriot from the coarse assaults of party malevolence. No, sir. In 1801 he snatched from the rude hand of usurpation the violated Constitution of his country, and that is his crime. He preserved that instrument, in form, and substance, and spirit, a precious inheritance for generations to come, and for this he can never be forgiven. How vain and impotent is party rage, directed against such a man. He is not more elevated by his lofty residence, upon the summit of his

own favorite mountain, than he is lifted, by the serenity of his mind, and the consciousness of a well-spent life, above the malignant passions and bitter feelings of the day. No! his own beloved Monticello is not less moved by the storms that beat against its sides than is this illustrious man by the howlings of the whole British pack, set loose from the Essex kennel.' When the gentleman to whom I have been compelled to allude shall have mingled his dust with that of his abused ancestors, when he shall have been consigned to oblivion, or, if he lives at all, shall live only in the treasonable annals of a certain junto, the name of Jefferson will be hailed with gratitude, his memory honored and cherished as the second founder of the liberties of the people, and the period of his administration will be looked back to as one of the happiest and brightest epochs of American history; an oasis in the midst of a sandy desert. But I beg the gentleman's pardon; he has already secured to himself a more imperishable fame than I had supposed; I think it was about four years that he submitted to the House of Representatives an initiative proposition for the impeachment of Mr. Jefferson. The house condescended to consider it. The gentleman de-

bated it with his usual temper, moderation, and urbanity. The house decided upon it in the most solemn manner, and, although the gentleman had somehow obtained a second, the final vote stood one for, and one hundred and seventeen against, the proposition. * * *

But sir, I must speak of another subject, which I never think of but with feelings of the deepest awe. The gentleman from Massachusetts, in imitation of some of his predecessors of 1799, has entertained us with a picture of cabinet plots, presidential plots, and all sorts of plots, which have been engendered by the diseased state of the gentleman's imagination. I wish, sir, that another plot, of a much more serious and alarming character—a plot that aims at the dismemberment of our Union—had only the same imaginary existence. But no man, who has paid any attention to the tone of certain prints and to transactions in a particular quarter of the Union, for several years past, can doubt the existence of such a plot. It was far, very far from my intention to charge the opposition with such a design. No, I believe them generally incapable of it. But I cannot say as much for some who have been unworthily as-

sociated with them in the quarter of the Union to which I have referred. The gentleman cannot have forgotten his own sentiment, uttered even on the floor of this house, "peaceably if we can, forcibly if we must," nearly at the very time Henry's mission was undertaken.* The flagitiousness of that embassy had been attempted to be concealed by directing the public attention to the price which, the gentleman says, was given for the disclosure. As if any price could change the atrociousness of the attempt on the part of Great Britain, or could extenuate, in the slightest degree, the offence of those citizens, who entertained and deliberated on a proposition so infamous and unnatural * * * But, sir, I will quit this unpleasant subject. * * *

The war was declared because Great Britain arrogated to herself the pretension of regulating our foreign trade, under the delusive name of retaliatory orders in council—a pretension by which she undertook to proclaim to American enterprise, "thus far shalt thou go, and no further"—orders which she refused to revoke after the alleged cause of their enactment had ceased; because she persisted in the practice of impressing American seamen; because she had

instigated the Indians to commit hostilities against us; and because she refused indemnity for her past injuries upon our commerce. I throw out of the question other wrongs. So undeniable were the causes of the war, so powerfully did they address themselves to the feelings of the whole American people, that when the bill was pending before this House, gentlemen in the opposition, although provoked to debate, would not, or could not, utter one syllable against it. It is true, they wrapped themselves up in sullen silence, pretending they did not choose to debate such a question in secret session. While speaking of the proceedings on that occasion I beg to be permitted to advert to another fact which transpired—an important fact, material for the nation to know, and which I have often regretted had not been spread upon our journals. My honorable colleague (Mr. McKee) moved, in committee of the whole, to comprehend France in the war; and when the question was taken upon the proposition, there appeared but ten votes in support of it, of whom seven belonged to this side of the house, and three only to the other. * * *

It is not to the British principle (of alle-

giance), objectionable as it is, that we are alone to look; it is to her practice, no matter what guise she puts on. It is in vain to assert the inviolability of the obligation of allegiance. It is in vain to set up the plea of necessity, and to allege that she cannot exist without the impressment of *HER* seamen. The naked truth is, she comes, by her press-gangs, on board of our vessels, seizes *OUR* native as well as naturalized seamen, and drags them into her service. It is the case, then, of the assertion of an erroneous principle, and of a practice not conformable to the asserted principle—a principle which, if it were theoretically right, must be forever practically wrong—a practice which can obtain countenance from no principle whatever, and to submit to which, on our part, would betray the most abject degradation. We are told, by gentlemen in the opposition, that government has not done all that was incumbent on it to do, to avoid just cause of complaint on the part of Great Britain; that in particular the certificates of protection, authorized by the act of 1796, are fraudulently used. Sir, government has done too much in granting those paper protections. I can never think of them without being shocked. They

resemble the passes which the master grants to his negro slave: "Let the bearer, Mungo, pass and repass without molestation." What do they imply? That Great Britain has a right to seize all who are not provided with them. From their very nature, they must be liable to abuse on both sides. If Great Britain desires a mark, by which she can know her own subjects, let her give them an ear-mark. The colors that float from the mast-head should be the credentials of our seamen. There is no safety to us, and the gentlemen have shown it, but in the rule that all who sail under the flag (not being enemies), are protected by the flag. It is impossible that this country should ever abandon the gallant tars who have won for us such splendid trophies. Let me suppose that the genius of Columbia should visit one of them in his oppressor's prison, and attempt to reconcile him to his forlorn and wretched condition. She would say to him, in the language of gentlemen on the other side: "Great Britain intends you no harm; she did not mean to impress you, but one of her own subjects; having taken you by mistake, I will remonstrate, and try to prevail upon her, by peaceable means, to release you; but I cannot, my son, fight for you." If

he did not consider this mere mockery, the poor tar would address her judgment and say: "You owe me, my country, protection; I owe you, in return, obedience. I am no British subject; I am a native of old Massachusetts, where lived my aged father, my wife, my children. I have faithfully discharged my duty. Will you refuse to do yours?" Appealing to her passions, he would continue: "I lost this eye in fighting under Truxton, with the *Insurgente*; I got this scar before Tripoli; I broke this leg on board the *Constitution*, when the *Guerrière* struck." * * * I will not imagine the dreadful catastrophe to which he would be driven by an abandonment of him to his oppressor. It will not be, it cannot be, that his country will refuse him protection. * * *

An honorable peace is attainable only by an efficient war. My plan would be to call out the ample resources of the country, give them a judicious direction, prosecute the war with the utmost vigor, strike wherever we can reach the enemy, at sea or on land, and negotiate the terms of a peace at Quebec or at Halifax. We are told that England is a proud and lofty nation, which, disdaining to wait for danger, meets it half way. Haughty as she is we

triumphed over her once, and, if we do not listen to the counsels of timidity and despair, we shall again prevail. In such a cause, with the aid of Providence, we must come out crowned with success; but, if we fail, let us fail like men, lash ourselves to our gallant tars, and expire together in one common struggle, fighting for **FREE TRADE AND SEAMEN'S RIGHTS.**

IV.

THE RISE OF NATIONALITY.



IV.

THE RISE OF NATIONALITY.

IN spite of execrable financial management, of the criminal blunders of political army officers, and of consequent defeats on land, and quite apart from brilliant sea-fights and the New Orleans victory, the war of 1812 was of incalculable benefit to the United States. It marks more particularly the point at which the already established democracy began to shade off into a real nationality.

The Democratic party began its career as a States-rights party. Possession of national power had so far modified the practical operation of its tenets that it had not hesitated to carry out a national policy, and even wage a desperate war, in flat opposition to the will of one section of the Union, comprising five of its most influential States ; and, when the Hartford

Convention was suspected of a design to put the New England opposition to the war into a forcible veto, there were many indications that the dominant party was fully prepared to answer by a forcible materialization of the national will. In the North and West, at least, the old States-rights formulas never carried a real vitality beyond the war of 1812. Men still spoke of "sovereign States," and prided themselves on the difference between the "voluntary union of States" and the effete despotisms of Europe; but the ghost of the Hartford Convention had laid very many more dangerous ghosts in the section in which it had appeared.

The theatre of the war, now filled with comfortable farms and populous cities, was then less known than any of our Territories in 1896. There were no roads, and the transportation of provisions for the troops, of guns, ammunition, and stores for the lake navies, was one of the most difficult of the problems which the National Government was called upon to solve. It cannot be said that

the solution was successfully reached, for the blunders in transportation were among the most costly, exasperating, and dangerous of the war. But the efforts to reach it provided the impulse which soon after resulted in the settlement of Western New York, the appearance of the germs of such flourishing cities as Buffalo, Rochester, and Syracuse, the opening up of the Southwest Territory, between Tennessee and New Orleans, and the rapid admission of the new States of Indiana, Illinois, Mississippi, and Missouri. But the impulse did not stop here. The inconveniences and dangers arising from the possession of a vast territory with utterly inadequate means of communication had been brought so plainly to public view by the war that the question of communication influenced politics in every direction. In New York it took shape in the construction of the Erie Canal (finished in 1825). In States farther west and south, the loaning of the public credit to enterprises of the nature of the Erie Canal increased until the panic of 1837 introduced

“repudiation” into American politics. In national politics, the necessity of a general system of canals and roads, as a means of military defence, was at first admitted by all, even by Calhoun, was gradually rejected by the stricter constructionists of the Constitution, and finally became a tenet of the National Republican party, headed by John Quincy Adams and Clay (1825-29), and of its greater successor the Whig party, headed by Clay. This idea of Internal Improvements at national expense, though suggested by Gallatin and Clay in 1806-08, only became a political question when the war had forced it upon public attention ; and it has not yet entirely disappeared.

The maintenance of such a system required money, and a high tariff of duties on imports was a necessary concomitant to Internal Improvements. The germ of this system was also a product of the war of 1812. Hamilton had proposed it twenty years before ; and the first American tariff act had declared that its object was the encouragement of American manufac-

tures. But the system had never been effectively introduced until the war and the blockade had forced American manufactures into existence. Peace brought competition with British manufacturers, and the American manufacturers began to call for protection. The tariff of 1816 contained the principle of Protection, but only carried it into practice far enough to induce the manufacturers to rely on the dominant party for more of it. This expectation, rather than the Federalist opposition to the war, is the explanation of the immediate and rapid decline of the Federal party in New England. Continued effort brought about the tariff of 1824, which was more protective ; the tariff of 1828, which was still more protective ; and the tariff of 1830, which reduced the protective element to a system.

The two sections, North and South, had been very much alike until the war called the principle of growth into activity. The slave system of labor, which had fallen in the North and had survived and been made still more

profitable in the South by Whitney's invention of the cotton gin in 1793, shut the South off from almost all share in the new life. That section had a monopoly of the cotton culture, and the present profit of slave labor blinded it to the ultimate consequences of it. The slave was fit for rude agriculture alone; he could not be employed in manufactures, or in any labor which required intelligence; and the slave-owner, while he desired manufactures, did not dare to cultivate the necessary intelligence in his own slaves. The South could therefore find no profit in protection, and yet it could not with dignity admit that its slave system precluded it from the advantages of protection, or base its opposition to protection wholly on economic grounds. Its only recourse was the constitutional ground of the lack of power of Congress to pass a protective tariff, and this brought up again the question which had evolved the Kentucky resolutions of 1798-9. Calhoun, with pitiless logic, developed them into a scheme of constitutional Nullification. Under his lead,

South Carolina, in 1832, declared through her State Convention that the protective tariff acts were no law, nor binding on the State, its officers or citizens. President Jackson, while he was ready and willing to suppress any such rebellion by force, was not sorry to see his adherents in Congress make use of it to overthrow protection; and a "compromise tariff," to which the protectionists agreed, was passed in 1833. It reduced the duties by an annual percentage for ten years. The nullifiers claimed this as a triumph, and formally repealed the ordinance of nullification, as if it had accomplished its object. But, in its real intent, it had failed wretchedly. It had asserted State sovereignty through the State's proper voice of a convention. When the time fixed for the execution of the ordinance arrived, Jackson's intention of taking the State's sovereignty by the throat had become so evident that an unofficial meeting of nullifiers suspended the ordinance until the passage of the compromise tariff had made it unnecessary. For the first time, the force of a

State and the national force had approached threateningly near collision, and no State ever tried it again. When the tariff of 1842 re-introduced the principle of protection, no one thought of taking the broken weapon of nullification from its resting-place; and secession was finally attempted only as a sectional movement, not as the expression of the will of a State, but as a concerted revolution by a number of States. It seems certain that nationality had attained force enough, even in 1833, to have put State sovereignty forever under its feet; and that but for the cohesive sectional force of slavery and its interests, the development of nationality would have been undisputed for the future.

New conditions were increasing the growth of the North and West, and their separation from the South in national life, even when nullification was in its death struggle. The acquisition of Louisiana in 1803 had been followed in 1807 by Fulton's invention of the steamboat, the most important factor in carrying immigra-

tion into the new territories and opening them up to settlement. But the steamboat could not quite bridge over the gap between the Alleghanies and the Mississippi. Internal improvements, canals, and improved roads were not quite the instrument that was needed. It was found at last in the introduction of the railway into the United States in 1830-32. This proved to be an agent which could solve every difficulty except its own. It could bridge over every gap ; it could make profit of its own, and make profitable that which had before been unprofitable. It placed immigrants where the steamboat, canal, and road could at last be of the highest utility to them ; it developed the great West with startling rapidity ; it increased the sale of government lands so rapidly that in a few years the debt of the United States was paid off, and the surplus became, for the first time, a source of political embarrassment. In a few years further, aided by revolutionary troubles in Europe, immigration became a great stream, which poured into and altered the con-

ditions of every part of the North and West. The stream was altogether nationalizing in its nature. The immigrant came to the United States, not to a particular State. To him, the country was greater than any State ; even that of his adoption. Labor conditions excluded the South from this element of progress also. Not only were the railroads of the South hampered in every point by the old difficulty of slave labor ; immigration and free labor shunned slave soil as if the plague were there prevalent. Year after year the North and West became more national in their prejudices and modes of thought and action ; while the South remained little changed, except by a natural reactionary drift toward a more extreme colonialism. The natural result, in the next period was the development of a *quasi* nationality in the South itself.

The introduction of the railway had brought its own difficulties, though these were not felt severely until after years. In the continent of Europe, the governments carefully retained

their powers of eminent domain when the new system was introduced. The necessary land was loaned to the railways for a term of years, at the expiration of which the railway was to revert to the State; and railway troubles were non-existent, or comparatively tractable. In the United States, as in Great Britain, free right of incorporation was supplemented by what was really a gift of the power of eminent domain. The necessary land became the property of the corporations in fee, and it has been found almost equally difficult to revoke the gift or to introduce a railway control.

Democracy took a new and extreme line of development under its alliance with nationality. As the dominant party, about 1827-8, became divided into two parties, the new parties felt the democratic influence as neither of their predecessors had felt it. Nominations, which had been made by cliques of legislators or Congressmen, began to be made by popular delegate conventions about 1825. Before 1835, national, State, and local conventions had been

united into parties of the modern type. With them came the *pseudo* democratic idea of "rotation in office," introduced into national politics by President Jackson, in 1829, and adopted by succeeding administrations. There were also some attempts to do away with the electoral system, and to make the federal judiciary elective, or to impose on it some other term of office than good behavior; but these had neither success nor encouragement.

The financial errors of the war of 1812 had fairly compelled the re-establishment of the Bank of the United States in 1816, with a charter for twenty years, and the control of the deposits of national revenue. Soon after Jackson's inauguration, the managers of the new democratic party came into collision with the bank on the appointment of a subordinate agent. It very soon became evident that the bank could not exist in the new political atmosphere. It was driven into politics; a new charter was vetoed in 1832; and after one of the

bitterest struggles of our history, the bank ceased to exist as a government institution in 1836. The reason for its fall, however disguised by attendant circumstances, was really its lack of harmony with the national-democratic environment which had overtaken it. Benton's speech presents a review of this bank struggle and of accompanying political controversies.

The anti-slavery agitation, which began in 1830, was as evidently a product of the new phase of democracy, but will fall more naturally under the next period.

Webster's reply to Hayne has been taken as the best illustration of that thoroughly national feeling which was impossible before the war of 1812, and increasingly more common after it. It has been necessary to preface it with Hayne's speech, in order to have a clear understanding of parts of Webster's; but it has not been possible to omit Calhoun's speech, as a defence of his scheme of nullification, and as an exemplifica-

tion of the reaction toward colonialism with which the South met the national development. It has not seemed necessary to include other examples of the orations called forth by the temporary political issues of the time.

ROBERT Y. HAYNE,*
OF SOUTH CAROLINA.¹

(BORN 1791, DIED 1839.)

ON MR. FOOT'S RESOLUTION IN THE UNITED STATES
SENATE, JAN. 21, 1830.²

MR. SPEAKER :

Mr. Hayne said, when he took occasion, two days ago, to throw out some ideas with respect to the policy of the government in relation to the public lands, nothing certainly could have been further from his thoughts than that he should have been compelled again to throw himself upon the indulgence of the Senate. Little did I expect, said Mr. H., to be called upon to meet such an argument as was yesterday urged by the gentleman from Massachusetts (Mr. Webster). Sir, I question no man's opinions; I impeach no man's motives; I charged no party, or State, or section of country with hostility to any other, but ventured, as I thought,

* For notes on Hayne see Appendix, p. 380.

in a becoming spirit, to put forth my own sentiments in relation to a great national question of public policy. Such was my course. The gentleman from Missouri (Mr. Benton), it is true, had charged upon the Eastern States an early and continued hostility toward the West, and referred to a number of historical facts and documents in support of that charge. Now, sir, how have these different arguments been met? The honorable gentleman from Massachusetts, after deliberating a whole night upon his course, comes into this chamber to vindicate New England; and instead of making up his issue with the gentleman from Missouri, on the charges which *he had preferred*, chooses to consider me as the author of those charges, and losing sight entirely of that gentleman, selects me as his adversary, and pours out all the vials of his mighty wrath upon my devoted head. Nor is he willing to stop there. He goes on to assail the institutions and policy of the South, and calls in question the principles and conduct of the State which I have the honor to represent. When I find a gentleman of mature age and experience, of acknowledged talents and profound sagacity, pursuing a course like this, declining the contest offered from the West,

and making war upon the unoffending South, I must believe, I am bound to believe, he has some object in view which he has not ventured to disclose. Mr. President, why is this? Has the gentleman discovered in former controversies with the gentleman from Missouri, that he is overmatched by that senator? And does he hope for an easy victory over a more feeble adversary? Has the gentleman's distempered fancy been disturbed by gloomy forebodings of "new alliances to be formed," at which he hinted? Has the ghost of the murdered coalition come back, like the ghost of Banquo, to "sear the eyeballs" of the gentleman, and will not down at his bidding? Are dark visions of broken hopes, and honors lost forever, still floating before his heated imagination? Sir, if it be his object to thrust me between the gentleman from Missouri and himself, in order to rescue the East from the contest it has provoked with the West, he shall not be gratified. Sir, I will not be dragged into the defence of my friend from Missouri. The South shall not be forced into a conflict not its own. The gentleman from Missouri is able to fight his own battles. The gallant West needs no aid from the South to repel any attack which may be made

upon them from any quarter. Let the gentleman from Massachusetts controvert the facts and arguments of the gentleman from Missouri, if he can—and if he win the victory, let him wear the honors; I shall not deprive him of his laurels. * * *

Sir, any one acquainted with the history of parties in this country will recognize in the points now in dispute between the Senator from Massachusetts and myself the very grounds which have, from the beginning, divided the two great parties in this country, and which (call these parties by what names you will, and *amalgamate* them as you may) will divide them forever. The true distinction between those parties is laid down in a celebrated manifesto issued by the convention of the Federalists of Massachusetts, assembled in Boston, in February, 1824, on the occasion of organizing a party opposition to the re-election of Governor Eustis.* The gentleman will recognize this as “the canonical book of political scripture”; and it instructs us that, when the American colonies redeemed themselves from British bondage, and became so many *independent nations*, they proposed to form a NATIONAL UNION (not a *Federal* Union, sir, but a NATIONAL UNION).

Those who were in favor of a union of the States in this form became known by the name of Federalists; those who wanted no union of the States, or disliked the proposed form of union, became known by the name of Anti-Federalists. By means which need not be enumerated, the Anti-Federalists became (after the expiration of twelve years) our national rulers, and for a period of sixteen years, until the close of Mr. Madison's administration in 1817, continued to exercise the exclusive direction of our public affairs. Here, sir, is the true history of the origin, rise, and progress of the party of National Republicans, who date back to the very origin of the Government, and who then, as now, chose to consider the Constitution as having created not a Federal, but a National, Union; who regarded "consolidation" as no evil, and who doubtless consider it "a consummation to be wished" to build up a great "central government," "one and indivisible." Sir, there have existed, in every age and every country, two distinct orders of men—the *lovers of freedom* and the devoted *advocates of power*.

The same great leading principles, modified only by the peculiarities of manners, habits, and institutions, divided parties in the ancient

republics, animated the Whigs and Tories of Great Britain, distinguished in our own times the Liberals and Ultras of France, and may be traced even in the bloody struggles of unhappy Spain. Sir, when the gallant Riego,* who devoted himself and all that he possessed to the liberties of his country, was dragged to the scaffold, followed by the tears and lamentations of every lover of freedom throughout the world, he perished amid the deafening cries of "Long live the absolute king!" The people whom I represent, Mr. President, are the descendants of those who brought with them to this country, as the most precious of their possessions, "an ardent love of liberty"; and while that shall be preserved, they will always be found manfully struggling against the *consolidation of the Government* AS THE WORST OF EVILS. * * *'

Who, then, Mr. President, are the true friends of the Union? Those who would confine the Federal Government strictly within the limits prescribed by the Constitution; who would preserve to the States and the people all powers not expressly delegated; who would make this a Federal and not a National Union, and who, administering the Government in a spirit of equal justice, would make it a blessing, and not

a curse. And who are its enemies? Those who are in favor of consolidation; who are constantly stealing power from the States, and adding strength to the Federal Government; who, assuming an unwarrantable jurisdiction over the States and the people, undertake to regulate the whole industry and capital of the country. But, sir, of all descriptions of men, I consider those as the worst enemies of the Union, who sacrifice the equal rights which belong to every member of the confederacy to combinations of interested majorities for personal or political objects. But the gentleman apprehends no evil from the dependence of the States on the Federal Government; he can see no danger of corruption from the influence of money or patronage. Sir, I know that it is supposed to be a wise saying that "patronage is a source of weakness"; and in support of that maxim it has been said that "every ten appointments make a hundred enemies." But I am rather inclined to think, with the eloquent and sagacious orator⁹ now reposing on his laurels on the banks of the Roanoke, that "the power of conferring favors creates a crowd of dependents"; he gave a forcible illustration of the truth of the remark, when he told us of the

effect of holding up the savory morsel to the eager eyes of the hungry hounds gathered around his door. It mattered not whether the gift was bestowed on "Towzer" or "Sweetlips," "Tray," "Blanche," or "Sweetheart"; while held in suspense, they were all governed by a nod, and when the morsel was bestowed, the expectation of the favors of to-morrow kept up the subjection of to-day.

The Senator from Massachusetts, in denouncing what he is pleased to call the Carolina doctrine, has attempted to throw ridicule upon the idea that a State has any constitutional remedy by the exercise of its sovereign authority, against "a gross, palpable, and deliberate violation of the Constitution." He calls it "an idle" or "a ridiculous notion," or something to that effect, and added, that it would make the Union a "mere rope of sand." Now, sir, as the gentleman has not condescended to enter into any examination of the question, and has been satisfied with throwing the weight of his authority into the scale, I do not deem it necessary to do more than to throw into the opposite scale the authority on which South Carolina relies; and there, for the present, I am perfectly willing to leave the controversy. The South Carolina

doctrine, that is to say, the doctrine contained in an exposition reported by a committee of the Legislature in December, 1828, and published by their authority, is the good old Republican doctrine of '98—the doctrine of the celebrated “Virginia Resolutions” of that year, and of “Madison’s Report” of '99. It will be recollected that the Legislature of Virginia, in December, '98, took into consideration the alien and sedition laws, then considered by all Republicans as a gross violation of the Constitution of the United States, and on that day passed, among others, the following resolution:—

“The General Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States who are the parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil,

and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

In addition to the above resolution, the General Assembly of Virginia "appealed to the other States, in the confidence that they would concur with that commonwealth, that the acts aforesaid (the alien and sedition laws) are unconstitutional, and that the necessary and proper measures would be taken by each for coöperating with Virginia in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively, or to the people." * * *

But, sir, our authorities do not stop here. The State of Kentucky responded to Virginia, and on the 10th of November, 1798, adopted those celebrated resolutions, well known to have been penned by the author of the Declaration of American Independence. In those resolutions, the Legislature of Kentucky declare, "that the government created by this compact was not made the exclusive or final judge of the extent of the power delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has

an equal right to judge for itself as well of infractions as of the mode and measure of redress." * * *¹⁰

Sir, at that day the whole country was divided on this very question. It formed the line of demarcation between the federal and republican parties; and the great political revolution which then took place turned upon the very questions involved in these resolutions. That question was decided by the people, and by that decision the Constitution was, in the emphatic language of Mr. Jefferson, "saved at its last gasp." I should suppose, sir, it would require more self-respect than any gentleman here would be willing to assume, to treat lightly doctrines derived from such high sources. Resting on authority like this, I will ask, gentlemen, whether South Carolina has not manifested a high regard for the Union, when, under a tyranny ten times more grievous than the alien and sedition laws, she has hitherto gone no further than to petition, remonstrate, and to solemnly protest against a series of measures which she believes to be wholly unconstitutional and utterly destructive of her interests. Sir, South Carolina has not gone one step further than Mr. Jefferson himself was disposed to

go, in relation to the present subject of our present complaints—not a step further than the statesmen from New England were disposed to go under similar circumstances; no further than the Senator from Massachusetts himself once considered as within “the limits of a constitutional opposition.” The doctrine that it is the right of a State to judge of the violations of the Constitution on the part of the Federal Government, and to protect her citizens from the operations of unconstitutional laws, was held by the enlightened citizens of Boston, who assembled in Faneuil Hall, on the 25th of January, 1809.” They state, in that celebrated memorial, that “they looked only to the State Legislature, which was competent to devise relief against the unconstitutional acts of the General Government. That your power (say they) is adequate to that object, is evident from the organization of the confederacy.” * * *

Thus it will be seen, Mr. President, that the South Carolina doctrine is the Republican doctrine of '98,—that it was promulgated by the fathers of the faith,—that it was maintained by Virginia and Kentucky in the worst of times,—that it constituted the very pivot on which the political revolution of that day

turned,—that it embraces the very principles, the triumph of which, at that time, saved the Constitution at its last gasp, and which New England statesmen were not unwilling to adopt when they believed themselves to be the victims of unconstitutional legislation. Sir, as to the doctrine that the Federal Government is the exclusive judge of the extent as well as the limitations of its power, it seems to me to be utterly subversive of the sovereignty and independence of the States. It makes but little difference, in my estimation, whether Congress or the Supreme Court are invested with this power. If the Federal Government, in all, or any, of its departments, is to prescribe the limits of its own authority, and the States are bound to submit to the decision, and are not to be allowed to examine and decide for themselves when the barriers of the Constitution shall be overleaped, this is practically “a government without limitation of powers.” The States are at once reduced to mere petty corporations, and the people are entirely at your mercy. I have but one word more to add. In all the efforts that have been made by South Carolina to resist the unconstitutional laws which Congress has extended over them,

she has kept steadily in view the preservation of the Union, by the only means by which she believes it can be long preserved—a firm, manly, and steady resistance against usurpation. The measures of the Federal Government have, it is true, prostrated her interests, and will soon involve the whole South in irretrievable ruin. But even this evil, great as it is, is not the chief ground of our complaints. It is the principle involved in the contest—a principle which, substituting the discretion of Congress for the limitations of the Constitution, brings the States and the people to the feet of the Federal Government, and leaves them nothing they can call their own. Sir, if the measures of the Federal Government were less oppressive, we should still strive against this usurpation. The South is acting on a principle she has always held sacred—resistance to unauthorized taxation. These, sir, are the principles which induced the immortal Hampden to resist the payment of a tax of twenty shillings. Would twenty shillings have ruined his fortune? No! but the payment of half of twenty shillings, on the principle on which it was demanded, would have made him a slave.¹³ Sir, if acting on these high motives—if animated by that ardent love

of liberty which has always been the most prominent trait in the Southern character, we would be hurried beyond the bounds of a cold and calculating prudence ; who is there, with one noble and generous sentiment in his bosom, who would not be disposed, in the language of Burke, to exclaim, " You must pardon something to the spirit of liberty ? " "

DANIEL WEBSTER,*

OF MASSACHUSETTS.¹

(BORN 1782, DIED 1852.)

IN REPLY TO HAYNE, IN THE UNITED STATES
SENATE, JANUARY 26, 1830.²

MR. PRESIDENT :

When the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence, and before we float further on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are. I ask for the reading of the resolution before the Senate.

The Secretary read the resolution, as follows :

Resolved, That the Committee on Public Lands

* For notes on Webster see Appendix, p. 385.

be instructed to inquire and report the quantity of public land remaining unsold within each State and Territory, and whether it be expedient to limit for a certain period the sales of the public lands to such lands only as have heretofore been offered for sale, and are now subject to entry at the minimum price. And, also, whether the office of Surveyor-General, and some of the land offices, may not be abolished without detriment to the public interest ; or whether it be expedient to adopt measures to hasten the sales and extend more rapidly the surveys of the public lands.

We have thus heard, sir, what the resolution is which is actually before us for consideration ; and it will readily occur to everyone, that it is almost the only subject about which something has not been said in the speech, running through two days, by which the Senate has been entertained by the gentleman from South Carolina. Every topic in the wide range of our public affairs, whether past or present—every thing, general or local, whether belonging to national politics or party politics—seems to have attracted more or less of the honorable member's attention, save only the resolution before the Senate. He has spoken of every thing but the public lands ; they have escaped

his notice. To that subject, in all his excursions, he has not paid even the cold respect of a passing glance.

When this debate, sir, was to be resumed, on Thursday morning, it so happened that it would have been convenient for me to be elsewhere.* The honorable member, however, did not incline to put off the discussion to another day. He had a shot, he said, to return, and he wished to discharge it. That shot, sir, which he thus kindly informed us was coming, that we might stand out of the way, or prepare ourselves to fall by it and die with decency, has now been received. Under all advantages, and with expectation awakened by the tone which preceded it, it has been discharged, and has spent its force. It may become me to say no more of its effect, than that, if nobody is found, after all, either killed or wounded, it is not the first time in the history of human affairs, that the vigor and success of the war have not quite come up to the lofty and sounding phrase of the manifesto.

The gentleman, sir, in declining to postpone the debate, told the Senate, with the emphasis of his hand upon his heart, that there was something rankling *here*, which he wished to

relieve. (Mr. Hayne rose, and disclaimed having used the word *rankling*.) It would not, Mr. President, be safe for the honorable member to appeal to those around him, upon the question whether he did in fact make use of that word. But he may have been unconscious of it. At any rate, it is enough that he disclaims it. But still, with or without the use of that particular word, he had yet something *here*, he said, of which he wished to rid himself by an immediate reply. In this respect, sir, I have a great advantage over the honorable gentleman. There is nothing *here*, sir, which gives me the slightest uneasiness; neither fear, nor anger, nor that which is sometimes more troublesome than either, the consciousness of having been in the wrong. There is nothing, either originating *here*, or now received *here* by the gentleman's shot. Nothing originating here, for I had not the slightest feeling of unkindness toward the honorable member. Some passages, it is true, had occurred since our acquaintance in this body, which I could have wished might have been otherwise; but I had used philosophy and forgotten them. I paid the honorable member the attention of listening with respect to his first speech; and when

he sat down, though surprised, and I must even say astonished, at some of his opinions, nothing was farther from my intention than to commence any personal warfare. Through the whole of the few remarks I made in answer, I avoided, studiously and carefully, every thing which I thought possible to be construed into disrespect. And, Sir, while there is thus nothing originating *here* which I have wished at any time, or now wish, to discharge, I must repeat, also, that nothing has been received *here* which *rankles*, or in any way gives me annoyance. I will not accuse the honorable member of violating the rules of civilized war; I will not say that he poisoned his arrows. But whether his shafts were, or were not, dipped in that which would have caused rankling if they had reached their destination, there was not, as it happened, quite strength enough in the bow to bring them to their mark. If he wishes now to gather up those shafts, he must look for them elsewhere; they will not be found fixed and quivering in the object at which they were aimed.

The honorable member complained that I slept on his speech. I must have slept on it, or not slept at all. The moment the honora-

ble member sat down, his friend from Missouri rose, and, with much honeyed commendation of the speech, suggested that the impressions which it had produced were too charming and delightful to be disturbed by other sentiments or other sounds, and proposed that the Senate should adjourn. Would it have been quite amiable in me, Sir, to interrupt this excellent good feeling? Must I not have been absolutely malicious, if I could have thrust myself forward, to destroy sensations thus pleasing? Was it not much better and kinder, both to sleep upon them myself, and to allow others also the pleasure of sleeping upon them? But if it be meant, by sleeping upon his speech, that I took time to prepare a reply to it, it is quite a mistake. Owing to other engagements, I could not employ even the interval between the adjournment of the Senate and its meeting the next morning, in attention to the subject of this debate. Nevertheless, Sir, the mere matter of fact is undoubtedly true. I did sleep on the gentleman's speech, and slept soundly. And I slept equally well on his speech of yesterday, to which I am now replying. It is quite possible that in this respect, also, I possess some advantage over the honorable

member, attributable, doubtless, to a cooler temperament on my part ; for, in truth, I slept upon his speeches remarkably well.

But the gentleman inquires why HE was made the object of such a reply. Why was *he* singled out? If an attack has been made on the East, he, he assures us, did not begin it ; it was made by the gentleman from Missouri. Sir, I answered the gentleman's speech because I happened to hear it ; * and because, also, I choose to give an answer to that speech, which, if unanswered, I thought most likely to produce injurious impressions. I did not stop to inquire who was the original drawer of the bill. I found a responsible indorser before me, and it was my purpose to hold him liable, and to bring him to his just responsibility without delay. But, sir, this interrogatory of the honorable member was only introductory to another. He proceeded to ask me whether I had turned upon him in this debate, from the consciousness that I should find an overmatch, if I ventured on a contest with his friend from Missouri. If, sir, the honorable member, *modestiae gratia*, had chosen thus to defer to his friend, and to pay him compliments, without intentional disparagement to others, it would have been quite ac-

according to the friendly courtesies of debate, and not at all ungrateful to my own feelings. I am not one of those, sir, who esteem any tribute of regard, whether light and occasional, or more serious and deliberate, which may be bestowed on others, as so much unjustly withholden from themselves. But the tone and the manner of the gentleman's question forbid me thus to interpret it. I am not at liberty to consider it as nothing more than a civility to his friend. It had an air of taunt and disparagement, something of the loftiness of asserted superiority, which does not allow me to pass it over without notice. It was put as a question for me to answer, and so put as if it were difficult for me to answer whether I deemed the member from Missouri an overmatch for myself in debate here. It seems to me, sir, that this is extraordinary language, and an extraordinary tone, for the discussions of this body.

Matches and overmatches! Those terms are more applicable elsewhere than here, and fitter for other assemblies than this. Sir, the gentleman seems to forget where and what we are. This is a Senate, a Senate of equals, of men of individual honor and personal character, and of absolute independence. We know no masters,

we acknowledge no dictators. This is a hall for mutual consultation and discussion ; not an arena for the exhibition of champions. I offer myself, sir, as a match for no man ; I throw the challenge of debate at no man's feet. But then, sir, since the honorable member has put the question in a manner that calls for an answer, I will give him an answer ; and I tell him, that, holding myself to be the humblest of the members here, I yet know nothing in the arm of his friend from Missouri, either alone or when aided by the arm of his friend from South Carolina, that need deter even me from espousing whatever opinions I may choose to espouse, from debating whenever I may choose to debate, or from speaking whatever I may see fit to say, on the floor of the Senate. Sir, when uttered as matter of commendation or compliment, I should dissent from nothing which the honorable member might say of his friend. Still less do I put forth any pretensions of my own. But when put to me as a matter of taunt, I throw it back, and say to the gentleman, that he could possibly say nothing less likely than such a comparison to wound my pride of personal character. The anger of its tone rescued the remark from intentional irony,

which otherwise, probably, would have been its general acceptance. But, sir, if it be imagined by this mutual quotation and commendation ; if it be supposed that, by casting the characters of the drama, assigning to each his part, to one the attack, to another the cry of onset ; or if it be thought that, by a loud and empty vaunt of anticipated victory, any laurels are to be won here ; if it be imagined, especially, that any, or all of these things will shake any purpose of mine, I can tell the honorable member, once for all, that he is greatly mistaken, and that he is dealing with one of whose temper and character he has yet much to learn. Sir, I shall not allow myself, on this occasion, I hope on no occasion, to be betrayed into any loss of temper ; but if provoked, as I trust I never shall be, into crimination and recrimination, the honorable member may, perhaps, find that in that contest, there will be blows to take as well as blows to give ; that others can state comparisons as significant, at least, as his own, and that his impunity may possibly demand of him whatever powers of taunt and sarcasm he may possess. I commend him to a prudent husbandry of his resources. * * *

On yet another point, I was still more unac-

countably misunderstood. The gentlemen had harangued against "consolidation." I told him, in reply, that there was one kind of consolidation to which I was attached, and that was the consolidation of our Union; that this was precisely that consolidation to which I feared others were not attached, and that such consolidation was the very end of the Constitution, the leading object, as they had informed us themselves, which its framers had kept in view. I turned to their communication, and read their very words, "the consolidation of the Union," and expressed my devotion to this sort of consolidation. I said, in terms, that I wished not in the slightest degree to augment the powers of this government; that my object was to preserve, not to enlarge; and that by consolidating the Union I understood no more than the strengthening of the Union, and perpetuating it. Having been thus explicit, having thus read from the printed book the precise words which I adopted, as expressing my own sentiments, it passes comprehension how any man could understand me as contending for an extension of the powers of the government, or for consolidation in that odious sense in which it means an accumulation, in the Federal Government, of the powers properly belonging to the States.

I repeat, sir, that, in adopting the sentiments of the framers of the Constitution, I read their language audibly, and word for word; and I pointed out the distinction, just as fully as I have now done, between the consolidation of the Union and that other obnoxious consolidation which I disclaim.' And yet the honorable member misunderstood me. The gentleman had said that he wished for no fixed revenue, —not a shilling. If by a word he could convert the Capitol into gold, he would not do it. Why all this fear of revenue? Why, sir, because, as the gentleman told us, it tends to consolidation. Now this can mean neither more nor less than that a common revenue is a common interest, and that all common interests tend to preserve the union of the States. I confess I like that tendency; if the gentleman dislikes it, he is right in deprecating a shilling of fixed revenue. So much, sir, for consolidation. * * *

Professing to be provoked by what he chose to consider a charge made by me against South Carolina, the honorable member, Mr. President, has taken up a crusade against New England. Leaving altogether the subject of the public lands, in which his success, perhaps, had been neither distinguished nor satisfactory, and let-

ting go, also, of the topic of the tariff, he sallied forth in a general assault on the opinions, politics, and parties of New England, as they have been exhibited in the last thirty years. * * *

New England has, at times, so argues the gentleman, held opinions as dangerous as those which he now holds. Suppose this were so; how should *he* therefore abuse New England? If he find himself countenanced by acts of hers, how is it that, while he relies on these acts, he covers, or seeks to cover, their authors with reproach? But, sir, if in the course of forty years, there have been undue effervescences of party in New England, has the same thing happened nowhere else? Party animosity and party outrage, not in New England, but elsewhere, denounced President Washington, not only as a Federalist, but as a Tory, a British agent, a man who in his high office sanctioned corruption. But does the honorable member suppose, if I had a tender here who should put such an effusion of wickedness and folly into my hand, that I would stand up and read it against the South? Parties ran into great heats again in 1799 and 1800. What was said, sir, or rather what was not said, in those years, against John

Adams, one of the committee that drafted the Declaration of Independence, and its admitted ablest defender on the floor of Congress? If the gentleman wishes to increase his stores of party abuse and frothy violence, if he has a determined proclivity to such pursuits, there are treasures of that sort south of the Potomac, much to his taste, yet untouched. I shall not touch them. * * * The gentleman's perveyors have only catered for him among the productions of one side. I certainly shall not supply the deficiency by furnishing him samples of the other. I leave to him, and to them, the whole concern. It is enough for me to say, that if, in any part of their grateful occupation, if, in all their researches, they find any thing in the history of Massachusetts, or of New England, or in the proceedings of any legislative or other public body, disloyal to the Union, speaking slightly of its value, proposing to break it up, or recommending non-intercourse with neighboring States, on account of difference in political opinion, then, sir, I give them all up to the honorable gentleman's unrestrained rebuke; expecting, however, that he will extend his buffetings in like manner, *to all similar proceedings, wherever else found.* * * *

Mr. President, in carrying his warfare, such as it is, into New England, the honorable gentleman all along professes to be acting on the defensive. He chooses to consider me as having assailed South Carolina, and insists that he comes forth only as her champion, and in her defence. Sir, I do not admit that I made any attack whatever on South Carolina. Nothing like it. The honorable member, in his first speech, expressed opinions, in regard to revenue and some other topics, which I heard with both pain and surprise. I told the gentleman I was aware that such sentiments were entertained *out* of the Government, but had not expected to find them advanced in it; that I knew there were persons in the South who speak of our Union with indifference or doubt, taking pains to magnify its evils, and to say nothing of its benefits; that the honorable member himself, I was sure, could never be one of these; and I regretted the expression of such opinions as he had avowed, because I thought their obvious tendency was to encourage feelings of disrespect to the Union, and to impair its strength. This, sir, is the sum and substance of all I said on the subject. And this constitutes the attack which called on

the chivalry of the gentleman, in his own opinion, to harry us with such a foray among the party pamphlets and party proceedings in Massachusetts! If he means that I spoke with dissatisfaction or disrespect of the ebullitions of individuals in South Carolina, it is true. But if he means that I assailed the character of the State, her honor, or patriotism, that I reflected on her history or her conduct, he has not the slightest grounds for any such assumption.

* * * I shall not acknowledge that the honorable member goes before me in regard for whatever of distinguished talent or distinguished character South Carolina has produced. I claim part of the honor, I partake in the pride of her great names. I claim them for my countrymen, one and all, the Laurenses, the Rutledges, the Pinckneys, the Sumpters, the Marions,—Americans all, whose fame is no more to be hemmed in by State lines than their talents and patriotism were capable of being circumscribed within the same narrow limits. In their day and generation they served and honored the country, and the whole country; and their renown is of the treasures of the whole country. Him whose honored name the gentleman himself bears—does he esteem me less capable of

gratitude for his patriotism, or sympathy for his sufferings, than if his eyes had first opened upon the light of Massachusetts, instead of South Carolina? Sir, does he suppose it in his power to exhibit a Carolina name so bright as to produce envy in my bosom? No, sir; increased gratification and delight, rather. I thank God that, if I am gifted with little of the spirit which is able to raise mortals to the skies, I have yet none, as I trust, of that other spirit which would drag angels down. When I shall be found, sir, in my place here in the Senate, or elsewhere, to sneer at public merit, because it happens to spring up beyond the little limits of my own State or neighborhood; when I refuse, for any such cause, or for any cause, the homage due to American talent, to elevated patriotism, to sincere devotion to liberty and the country; or, if I see an uncommon endowment of Heaven, if I see extraordinary capacity and virtue, in any son of the South; and if, moved by local prejudices or gangrened by State jealousy, I get up here to abate the tithe of a hair from his just character and just fame, may my tongue cleave to the roof of my mouth!

Sir, let me recur to pleasing recollections;

let me indulge in refreshing remembrances of the past ; let me remind you that, in early times, no States cherished greater harmony, both of principle and feeling, than Massachusetts and South Carolina. Would to God that harmony might again return ! Shoulder to shoulder they went through the Revolution, hand in hand they stood round the administration of Washington, and felt his own great arm lean on them for support. Unkind feeling, if it exist, alienation, and distrust, are the growth, unnatural to such soils, of false principles since sown. They are weeds, the seeds of which that same great arm never scattered.

Mr. President, I shall enter upon no encomium of Massachusetts ; she needs none. There she is. Behold her, and judge for yourselves. There is her history ; the world knows it by heart. The past, at least, is secure. There is Boston, and Concord, and Lexington, and Bunker Hill ; and there they will remain for ever. The bones of her sons, falling in the great struggle for Independence, now lie mingled with the soil of every State from New England to Georgia, and there they will lie forever. And, sir, where American Liberty raised its first voice, and where its youth was nurtured and sustained,

there it still lives, in the strength of its manhood, and full of its original spirit. If discord and disunion shall wound it, if party strife and blind ambition shall hawk and tear it, if folly and madness, if uneasiness under salutary and necessary restraint shall succeed in separating it from that Union, by which alone its existence is made sure, it will stand, in the end, by the side of that cradle in which its infancy was rocked ; it will stretch forth its arm with whatever of vigor it may still retain, over the friends who gather round it ; and it will fall at last, if fall it must, amidst the profoundest monuments of its own glory, and on the very spot of its origin.*

There yet remains to be performed, Mr. President, by far the most grave and important duty which I feel to be devolved upon me by this occasion. It is to state, and to defend, what I conceive to be the true principles of the Constitution under which we are here assembled. I might well have desired that so weighty a task should have fallen into other and abler hands. I could have wished that it should have been executed by those whose character and experience give weight and influence to their opinions, such as cannot possibly belong to mine. But,

sir, I have met the occasion, not sought it ; and I shall proceed to state my own sentiments, without challenging for them any particular regard, with studied plainness, and as much precision as possible.

I understand the honorable gentleman from South Carolina to maintain that it is a right of the State Legislatures to interfere whenever, in their judgment, this government transcends its constitutional limits, and to arrest the operation of its laws.

I understand him to maintain this right, as a right existing *under* the Constitution, not as a right to overthrow it on the ground of extreme necessity, such as would justify violent revolution.

I understand him to maintain an authority on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the General Government, of checking it and of compelling it to conform to their opinion of the extent of its powers.

I understand him to maintain, that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the General Government, or any branch of it ; but that, on the contrary, the

States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the General Government transcends its power.

I understand him to insist, that, if the exigencies of the case, in the opinion of any State government, require it, such State government may, by its own sovereign authority, annul an act of the General Government which it deems plainly and palpably unconstitutional.

This is the sum of what I understand from him to be the South Carolina doctrine, and the doctrine which he maintains. I propose to consider it, and compare it with the Constitution. Allow me to say, as a preliminary remark, that I call this the South Carolina doctrine only because the gentleman himself has so denominated it. I do not feel at liberty to say that South Carolina, as a State, has ever advanced these sentiments. I hope she has not, and never may. That a great majority of her people are opposed to the tariff laws, is doubtless true. That a majority, somewhat less than that just mentioned, conscientiously believe these laws unconstitutional, may probably also be true. But that any majority holds to the right of direct State interference at State discretion, the right

of nullifying acts of Congress by acts of State legislation, is more than I know, and what I shall be slow to believe.

That there are individuals besides the honorable gentleman who do maintain these opinions, is quite certain. I recollect the recent expression of a sentiment, which circumstances attending its utterance and publication justify us in supposing was not unpremeditated. "The sovereignty of the State,—never to be controlled, construed, or decided on, but by her own feelings of honorable justice.""

[Mr. HAYNE here rose and said, that, for the purpose of being clearly understood, he would state that his proposition was in the words of the Virginia resolution as follows:—

"That this assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact. the States that are parties thereto

have the right, and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

Mr. WEBSTER resumed :]

I am quite aware, Mr. President, of the existence of the resolution which the gentleman read, and has now repeated, and that he relies on it as his authority. I know the source, too, from which it is understood to have proceeded. I need not say that I have much respect for the constitutional opinions of Mr. Madison; they would weigh greatly with me always. But before the authority of his opinion be vouched for the gentleman's proposition, it will be proper to consider what is the fair interpretation of that resolution, to which Mr. Madison is understood to have given his sanction. As the gentleman construes it, it is an authority for him. Possibly, he may not have adopted the right construction. That resolution declares, that, *in the case of the dangerous exercise of powers not granted by the General Government, the States may interpose to arrest the progress of the evil.* But how interpose, and what does this declaration purport? Does

it mean no more than that there may be extreme cases, in which the people, in any mode of assembling, may resist usurpation, and relieve themselves from a tyrannical government? No one will deny this. Such resistance is not only acknowledged to be just in America, but in England also. Blackstone admits as much, in the theory, and practice, too, of the English Constitution. We, sir, who oppose the Carolina doctrine, do not deny that the people may, if they choose, throw off any government when it becomes oppressive and intolerable, and erect a better in its stead. We all know that civil institutions are established for the public benefit, and that when they cease to answer the ends of their existence they may be changed. But I do not understand the doctrine now contended for to be that, which, for the sake of distinction, we may call the right of revolution. I understand the gentleman to maintain, that, without revolution, without civil commotion, without rebellion, a remedy for supposed abuse and transgression of the powers of the General Government lies in a direct appeal to the interference of the State governments.

[Mr. HAYNE here arose and said: He did

not contend for the mere right of revolution, but for the right of constitutional resistance. What he maintained was, that in a case of plain, palpable violation of the Constitution by the General Government, a State may interpose; and that this interposition is constitutional.

Mr. WEBSTER resumed :]

So, sir, I understood the gentleman, and am happy to find that I did not misunderstand him. What he contends for is, that it is constitutional to interrupt the administration of the Constitution itself, in the hands of those who are chosen and sworn to administer it," by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their government I do not deny; and they have another right, and that is, to resist unconstitutional laws, without overturning the government. It is no doctrine of mine that unconstitutional laws bind the people. The great question is, Whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws? On that, the main debate hinges. The proposition, that, in case of a supposed violation of the Constitution by

Congress, the States have a constitutional right to interfere and annul the law of Congress is the proposition of the gentleman. I do not admit it. If the gentleman had intended no more than to assert the right of revolution for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution or rebellion, on the other. I say, the right of a State to annul a law of Congress cannot be maintained, but on the ground of the inalienable right of man to resist oppression; that is to say, upon the ground of revolution. I admit that there is an ultimate violent remedy, above the Constitution and in defiance of the Constitution, which may be resorted to when a revolution is to be justified. But I do not admit, that, under the Constitution and in conformity with it, there is any mode in which a State government, as a member of the Union, can interfere and stop the progress of the General Government, by force of her own laws, under any circumstances whatever.

This leads us to inquire into the origin of

this government and the source of its power. Whose agent is it? Is it the creature of the State Legislatures, or the creature of the people? If the Government of the United States be the agent of the State governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough, that the doctrine for which the honorable gentleman contends leads him to the necessity of maintaining, not only that this General Government is the creature of the States, but that it is the creature of each of the States, severally, so that each may assert the power for itself of determining whether it acts within the limits of its authority. It is the servant of four-and-twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this government and its true character. It is, sir, the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people." The people of the United States have declared that this Constitution shall be supreme law. We must either ad-

mit the proposition, or deny their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the State Legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the General Government, so far the grant is unquestionably good, and the Government holds of the people, and not of the State governments. We are all agents of the same supreme power, the people. The General Government and the State governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted, and the other general and residuary. The National Government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State governments, or to the people themselves. So far as the people have restrained State sovereignty by the expression of their will, in the Constitution of the United States, so far, it must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or ought to be, controlled farther, The sentiment to which I have re-

ferred propounds that State sovereignty is only to be controlled by its own "feeling of justice"—that is to say, it is not to be controlled at all, for one who is to follow his own feelings is under no legal control. Now, however men may think this ought to be, the fact is that the people of the United States have chosen to impose control on State sovereignties. There are those, doubtless, who wish they had been left without restraint; but the Constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the Constitution declares that no State shall make war. To coin money is another exercise of sovereign power; but no State is at liberty to coin money. Again, the Constitution says that no sovereign State shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the State sovereignty of South Carolina, as well as of the other States, which does not arise "from her own feelings of honorable justice." The opinion referred to, therefore, is in defiance of the plainest provisions of the Constitution.

There are other proceedings of public bodies which have already been alluded to; and to which I refer again, for the purpose of ascertaining

more fully what is the length and breadth of that doctrine denominated the Carolina doctrine, which the honorable member has now stood up on this floor to maintain. In one of them I find it resolved, that "the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of others, is contrary to the meaning and intention of the federal compact, and such a dangerous, palpable, and deliberate usurpation of power, by a determined majority, wielding the General Government beyond the limits of its delegated powers, as calls upon the States which compose the suffering minority, in their sovereign capacity, to exercise the powers which, as sovereigns, necessarily devolve upon them when their contract is violated."

Observe, sir, that this resolution holds the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of another, to be such a dangerous, palpable, and deliberate usurpation of power, as calls upon the States, in their sovereign capacity, to interfere by their own authority. This denunciation, Mr. President, you will please to observe, includes our old tariff of 1816, as well as all others ; because that was established to pro-

mote the interest of the manufacturers of cotton, to the manifest and admitted injury of the Calcutta cotton trade. Observe, again, that all the qualifications are here rehearsed and charged upon the tariff, which are necessary to bring the case within the gentleman's proposition. The tariff is a usurpation ; it is a dangerous usurpation ; it is a palpable usurpation ; it is a deliberate usurpation. It is such a usurpation, therefore, as calls upon the States to exercise their right of interference. Here is a case, then, within the gentleman's principles, and all his qualifications of his principles. It is a case for action. The Constitution is plainly, dangerously, palpably, and deliberately violated ; and the States must interpose their own authority to arrest the law. Let us suppose the State of South Carolina to express the same opinion, by the voice of her Legislature. That would be very imposing ; but what then ? It so happens that, at the very moment, when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. *They* hold those laws to be both highly proper and strictly constitutional. And now, sir, how does the honorable member propose to deal with this case ? How

does he relieve us from this difficulty upon any principle of his? His construction gets us into it; how does he propose to get us out?

In Carolina the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania it is both clearly constitutional and highly expedient; and there the duties are to be paid. And yet we live under a government of uniform laws, and under a constitution, too, which contains an express provision, as it happens, that all duties shall be equal in all States. Does not this approach absurdity?

If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again precisely upon the old Confederation?

It is too plain to be argued. Four-and-twenty interpreters of constitutional law, each with a power to decide for itself, and none with authority to bind any body else, and this constitutional law the only bond of their union! What is such a state of things but a mere connection during pleasure, or to use the phraseology of the times, *during feeling*? And that feeling, too, not the feeling of the people,

who established the Constitution, but the feeling of the State governments.

In another of the South Carolina addresses," having premised that the crisis requires "all the concentrated energy of passion," an attitude of open resistance to the laws of the Union is advised. Open resistance to the laws, then, is the constitutional remedy, the conservative power of the State, which the South Carolina doctrines teach for the redress of political evils, real or imaginary. And its authors further say, that, appealing with confidence to the Constitution itself, to justify their opinions, they cannot consent to try their accuracy by the courts of justice. In one sense, indeed, sir, this is assuming an attitude of open resistance in favor of liberty. But what sort of liberty? The liberty of establishing their own opinions, in defiance of the opinions of all others; the liberty of judging and deciding exclusively themselves, in a matter in which others have as much right to judge and decide as they; the liberty of placing their own opinion above the judgment of all others, above the laws, and above the Constitution. This is their liberty, and this is the fair result of the proposition contended for by the honorable gentle-

man. Or, it may be more properly said, it is identical with it, rather than a result from it. * * *¹⁴

Sir, the human mind is so constituted, that the merits of both sides of a controversy appear very clear, and very palpable, to those who respectively espouse them; and both sides usually grow clearer as the controversy advances. South Carolina sees unconstitutionality in the tariff; she sees oppression there also, and she sees danger. Pennsylvania, with a vision not less sharp, looks at the same tariff, and sees no such thing in it; she sees it all constitutional, all useful, all safe. The faith of South Carolina is strengthened by opposition, and she now not only sees, but *resolves*, that the tariff is palpably unconstitutional, oppressive, and dangerous; but Pennsylvania, not to be behind her neighbors, and equally willing to strengthen her own faith by a confident asseveration *resolves*, also, and gives to every warm affirmative of South Carolina, a plain, downright, Pennsylvania negative. South Carolina, to show the strength and unity of her opinion, brings her assembly to a unanimity, within seven voices; Pennsylvania, not to be outdone in this respect any more than in others, reduces

her dissentient fraction to a single vote. Now, sir, again, I ask the gentleman, What is to be done? Are these States both right? Is he bound to consider them both right? If not, which is in the wrong? or, rather, which has the best right to decide? And if he, and if I, are not to know what the Constitution means, and what it is, till those two State legislatures, and the twenty-two others, shall agree in its construction, what have we sworn to, when we have sworn to maintain it? I was forcibly struck, sir, with one reflection, as the gentleman went on in his speech. He quoted Mr. Madison's resolutions, to prove that a State may interfere, in a case of deliberate, palpable, and dangerous exercise of a power not granted. The honorable member supposes the tariff law to be such an exercise of power; and that consequently a case has arisen in which the State may, if it see fit, interfere by its own law. Now it so happens, nevertheless, that Mr. Madison deems this same tariff law quite constitutional. Instead of a clear and palpable violation, it is, in his judgment, no violation at all. So that, while they use his authority in a hypothetical case, they reject it in the very case before them. All this, sir, shows the inherent futility,

I had almost used a stronger word, of conceding this power of interference to the State, and then attempting to secure it from abuse by imposing qualifications of which the States themselves are to judge. One of two things is true; either the laws of the Union are beyond the discretion and beyond the control of the States; or else we have no constitution of general government, and are thrust back again to the days of the Confederation. * * *

I must now beg to ask, sir, whence is this supposed right of the States derived? Where do they find the power to interfere with the laws of the Union? Sir, the opinion which the honorable gentleman maintains, is a notion founded in a total misapprehension, in my judgment, of the origin of this government, and of the foundation on which it stands. I hold it to be a popular government, erected by the people; those who administer it, responsible to the people; and itself capable of being amended and modified, just as the people may choose it should be. It is as popular, just as truly emanating from the people, as the State governments. It is created for one purpose; the State governments for another. It has its own powers; they have theirs. There is no

more authority with them to arrest the operation of a law of Congress, than with Congress to arrest the operation of their laws. We are here to administer a constitution emanating immediately from the people, and trusted by them to our administration. It is not the creature of the State governments. * * *

This government, sir, is the independent offspring of the popular will. It is not the creature of State legislatures; nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the very purpose amongst others, of imposing certain salutary restraints on State sovereignties. The States cannot now make war; they cannot contract alliances; they cannot make, each for itself, separate regulations of commerce; they cannot lay imposts; they cannot coin money. If this Constitution, sir, be the creature of State legislatures, it must be admitted that it has obtained a strange control over the volitions of its creators.

The people, then, sir, erected this government. They gave it a constitution, and in that constitution they have enumerated the powers which they bestow on it. They have made it

a limited government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States, or the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid the possibility of doubt; no limitation so precise, as to exclude all uncertainty. Who, then, shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the government? Sir, they have settled all this in the fullest manner. They have left it with the government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole Constitution was framed and adopted, was to establish a government that should not be obliged to act through State agency, or depend on State opinion or State discretion. The people had had quite enough of that kind of government under the Confederation. Under that system, the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only

recommend; their acts were not of binding force, till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion and State construction? Sir, if we are, then vain will be our attempt to maintain the Constitution under which we sit.

But, sir, the people have wisely provided, in the Constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are in the Constitution grants of powers to Congress, and restrictions on these powers. There are also prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The Constitution has itself pointed out, ordained, and established that authority. How has it accomplished this great and essential end? By declaring, sir, that "*the Constitution and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding.*"

This, sir, was the first great step. By this the supremacy of the Constitution and the laws

of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the Constitution, or any law of the United States passed in pursuance of it. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the Constitution itself decides also, by declaring, "*that the judicial power shall extend to all cases arising under the Constitution and laws of the United States.*" These two provisions cover the whole ground. They are, in truth, the keystone of the arch! With these it is a government, without them a confederation. In pursuance of these clear and express provisions, Congress established, at its very first session, in the judicial act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, sir, became a government. It then had the means of self-protection; and but for this, it would, in all probability, have been now among things which are past. Having constituted the Government, and declared its powers, the people have further said, that, since somebody must decide on the extent of these powers, the Government shall itself decide; subject, always, like other

popular governments, to its responsibility to the people. And now, sir, I repeat, how is it that a State legislature acquires any power to interfere? Who, or what gives them the right to say to the people: "We, who are your agents and servants for one purpose, will undertake to decide, that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them!" The reply would be, I think, not impertinent: "Who made you a judge over another's servants? To their own masters they stand or fall."

Sir, I deny this power of State legislatures altogether. It cannot stand the test of examination. Gentlemen may say, that, in an extreme case, a State government may protect the people from intolerable oppression. Sir, in such a case the people might protect themselves without the aid of the State governments. Such a case warrants revolution. It must make, when it comes, a law for itself. A nullifying act of a State legislature cannot alter the case, nor make resistance any more lawful. In maintaining these sentiments, sir, I am but asserting the rights of the people. I state what they have declared, and insist on their right to declare it.

They have chosen to repose this power in the General Government, and I think it my duty to support it like other constitutional powers.

For myself, sir, I do not admit the competency of South Carolina or any other State to prescribe my constitutional duty ; or to settle, between me and the people the validity of laws of Congress for which I have voted. I decline her umpirage. I have not sworn to support the Constitution according to her construction of the clauses. I have not stipulated by my oath of office or otherwise, to come under any responsibility, except to the people, and those whom they have appointed to pass upon the question, whether laws, supported by my votes, conform to the Constitution of the country. And, sir, if we look to the general nature of the case, could any thing have been more preposterous than to make a government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four-and-twenty popular bodies, each at liberty to decide for itself, and none bound to respect the decisions

of others ; and each at liberty, too, to give a new constitution on every new election of its own members? Would any thing, with such a principle in it, or rather with such a destitution of all principle be fit to be called a government? No, sir. It should not be denominated a constitution. It should be called, rather, a collection of topics for everlasting controversy ; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good, or fit for any country to live under.

To avoid all possibility of being misunderstood, allow me to repeat again in the fullest manner, that I claim no powers for the government by forced or unfair construction. I admit that it is a government of strictly limited powers ; of enumerated, specified, and particularized powers ; and that whatsoever is not granted is withheld. But notwithstanding all this, and however the grant of powers may be expressed, its limit and extent may yet, in some cases, admit of doubt ; and the General Government would be good for nothing, it would be incapable of long existing, if some mode had not been provided in which those doubts as they should arise, might be peaceably but authoritatively solved."

And now, Mr. President, let me run the honorable gentleman's doctrine a little into its practical application. Let us look at his probable *modus operandi*. If a thing can be done, an ingenious man can tell *how* it is to be done, and I wish to be informed *how* this State interference is to be put in practice, without violence, bloodshed, and rebellion. We will take the existing case of the tariff law. South Carolina is said to have made up her opinion upon it. If we do not repeal it (as we probably shall not), she will then apply to the case the remedy of her doctrine. She will, we must suppose, pass a law of her legislature, declaring the several acts of Congress, usually called the tariff laws, null and void, so far as they respect South Carolina, or the citizens thereof. So far, all is a paper transaction, and easy enough. But the collector at Charleston is collecting the duties imposed by these tariff laws. He, therefore, must be stopped. The collector will seize the goods if the tariff duties are not paid. The State authorities will undertake their rescue, the marshal, with his posse, will come to the collector's aid, and here the contest begins. The militia of the State will be called out to sustain the nullifying act. They will march,

sir, under a very gallant leader ; for I believe the honorable member himself commands the militia of that part of the State. He will raise the NULLIFYING ACT on his standard, and spread it out as his banner ! It will have a preamble, setting forth, that the tariff laws are palpable, deliberate, and dangerous violations of the Constitution ! He will proceed, with this banner flying, to the custom-house in Charleston,

“ All the while,
Sonorous metal blowing martial sounds.”

Arrived at the custom-house, he will tell the collector that he must collect no more duties under any of the tariff laws. This he will be somewhat puzzled to say, by the way, with a grave countenance, considering what hand South Carolina herself had in that of 1816. But, sir, the collector would not, probably, desist at his bidding. He would show him the law of Congress, the treasury instruction, and his own oath of office. He would say, he should perform his duty, come what come might.

Here would ensue a pause ; for they say that a certain stillness precedes the tempest. The

trumpeter would hold his breath awhile, and before all this military array should fall on the custom-house, collector, clerks, and all, it is very probable some of those composing it would request of their gallant commander-in-chief to be informed upon a little point of law; for they have doubtless, a just respect for his opinions as a lawyer, as well as for his bravery as a soldier. They know he has read Blackstone and the Constitution, as well as Turenne and Vauban." They would ask him, therefore, somewhat concerning their rights in this matter. They would inquire whether it was not somewhat dangerous to resist a law of the United States. What would be the nature of their offence, they would wish to learn, if they, by military force and array, resisted the execution in Carolina of a law of the United States, and it should turn out, after all, that the law *was constitutional*? He would answer, of course, treason. No lawyer could give any other answer. John Fries, he would tell them, had learned that some years ago." How, then, they would ask, do you propose to defend us? We are not afraid of bullets, but treason has a way of taking people off that we do not much relish. How do you propose to defend

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us? "Look at my floating banner," he would reply; "see there the nullifying law!"

Is it your opinion, gallant commander, they would then say, that, if we should be indicted for treason, that same floating banner of yours would make a good plea in bar? "South Carolina is a sovereign State," he would reply. That is true; but would the judge admit our plea? "These tariff laws," he would repeat, "are unconstitutional, palpably, deliberately, dangerously." That may all be so; but if the tribunal should not happen to be of that opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of hemp tax worse than any part of the tariff.

Mr. President, the honorable gentleman would be in a dilemma, like that of another great general. He would have a knot before him which he could not untie. He must cut it with his sword. He must say to his followers, "Defend yourselves with your bayonets"; and this is war—civil war.

Direct collision, therefore, between force and force, is the unavoidable result of that remedy for the revision of unconstitutional laws which

the gentleman contends for. It must happen in the very first case to which it is applied. Is not this the plain result? To resist by force the execution of a law, generally, is treason. Can the courts of the United States take notice of the indulgence of a State to commit treason? The common saying, that a State cannot commit treason herself, is nothing to the purpose. Can she authorize others to do it? If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the government. They lead directly to disunion and civil commotion; and therefore it is, that at their commencement, when they are first found to be maintained by respectable men, and in a tangible form, I enter my public protest against them all.

The honorable gentleman argues that, if this Government be the sole judge of the extent of its own powers, whether that right of judging be in Congress or the Supreme Court, it equally subverts State sovereignty. This the gentleman sees, or thinks he sees, although he cannot perceive how the right of judging, in this mat-

ter, if left to the exercise of State legislatures, has any tendency to subvert the government of the Union. The gentleman's opinion may be, that the right *ought not* to have been lodged with the General Government; he may like better such a Constitution as we should have had under the right of State interference; but I ask him to meet me on the plain matter of fact. I ask him to meet me on the Constitution itself. I ask him if the power is not found there, clearly and visibly found there?

But, sir, what is this danger, and what are the grounds of it? Let it be remembered that the Constitution of the United States is not unalterable. It is to continue in its present form no longer than the people who established it shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power between the State governments and the General Government, they can alter that distribution at will.

If any thing be found in the national Constitution, either by original provision or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction, unacceptable to them, be

established so as to become practically a part of the Constitution, they will amend it, at their own sovereign pleasure. But while the people choose to maintain it as it is, while they are satisfied with it, and refuse to change it, who has given, or who can give, to the legislatures a right to alter it, either by interference, construction, or otherwise? Gentlemen do not seem to recollect that the people have any power to do any thing for themselves. They imagine there is no safety for them, any longer than they are under the close guardianship of the State legislatures. Sir, the people have not trusted their safety, in regard to the General Constitution, to these hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the Government themselves, in doubtful cases, should put on their powers, under their oaths of office, and subject to their responsibility to them, just as the people of a State trust to their own governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own servants and agents whenever they see cause.

Thirdly, they have reposed trust in the judicial power, which, in order that it might be trustworthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the Constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And, finally, the people of the United States have at no time, in no way, directly or indirectly, authorized any State legislature to construe or interpret *their* high instrument of government; much less to interfere, by their own power, to arrest its course and operation.

If, sir, the people in these respects had done otherwise than they have done, their Constitution could neither have been preserved, nor would it have been worth preserving. And if its plain provisions shall now be disregarded, and these new doctrines interpolated in it, it will become as feeble and helpless a being as its enemies, whether early or more recent, could possibly desire. It will exist in every State but as a poor dependent on State permission. It must borrow leave to be; and will be, no

longer than State pleasure, or State discretion, sees fit to grant the indulgence, and to prolong its poor existence.

But, sir, although there are fears, there are hopes also. The people have preserved this, their own chosen Constitution, for forty years, and have seen their happiness, prosperity, and renown grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be ; evaded, undermined, NULLIFIED, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the two great branches of our public trust, faithfully to preserve and wisely to administer it.

Mr. President, I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious of having detained you and the Senate much too long. I was drawn into the debate with no previous deliberation, such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot,

even now, persuade myself to relinquish it, without expressing, once more my deep conviction, that, since it respects nothing less than the union of the States, it is of most vital and essential importance to the public happiness. I profess, sir, in my career hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influences, these great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness.

I have not allowed myself, sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below ; nor could I regard him as a safe counsellor in the affairs of this Government, whose thoughts should be mainly bent on considering, not how the Union may be best preserved, but how tolerable might be the condition of the people when it should be broken up and destroyed. ¶ While the Union lasts we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that in my day at least that curtain may not rise ! God grant that on my vision never may be opened what lies behind ! ¶ When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union : on States dissevered, discordant, belligerent ; on a land rent with civil feuds, or drenched, it may be, in fraternal

blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, not a single star obscured, bearing for its motto, no such miserable interrogatory as "What is all this worth?" nor those other words of delusion and folly, "Liberty first and Union afterward"; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart,—Liberty *and* Union, now and forever, one and inseparable!"

JOHN C. CALHOUN,*

OF SOUTH CAROLINA.¹

(BORN 1782, DIED 1850.)

ON NULLIFICATION AND THE FORCE BILL, IN THE
UNITED STATES SENATE, FEB. 15, 1833.²

MR. PRESIDENT :

At the last session of Congress, it was avowed on all sides that the public debt, as to all practical purposes, was in fact paid, the small surplus remaining being nearly covered by the money in the Treasury and the bonds for duties which had already accrued ; but with the arrival of this event our last hope was doomed to be disappointed. After a long session of many months, and the most earnest effort on the part of South Carolina and the other Southern States to obtain relief, all that could be effected was a small reduction in the amount of the duties, but a reduction of such a character that, while it diminished the

* For notes on Calhoun see Appendix, p. 393.

amount of burden, it distributed that burden more unequally than even the obnoxious act of 1828; reversing the principle adopted by the bill of 1816, of laying higher duties on the unprotected than the protected articles, by repealing almost entirely the duties laid upon the former, and imposing the burden almost entirely on the latter. It was thus that, instead of relief—instead of an equal distribution of burdens and benefits of the government, on the payment of the debt, as had been fondly anticipated,—the duties were so arranged as to be, in fact, bounties on one side and taxation on the other; thus placing the two great sections of the country in direct conflict in reference to its fiscal action, and thereby letting in that flood of political corruption which threatens to sweep away our Constitution and our liberty.

This unequal and unjust arrangement was pronounced, both by the administration, through its proper organ, the Secretary of the Treasury, and by the opposition, to be a *permanent* adjustment; and it was thus that all hope of relief through the action of the General Government terminated; and the crisis so long apprehended at length arrived, at which

the State was compelled to choose between absolute acquiescence in a ruinous system of oppression, or a resort to her reserved powers—powers of which she alone was the rightful judge, and which only, in this momentous juncture, could save her. She determined on the latter.

The consent of two thirds of her Legislature was necessary for the call of a convention, which was considered the only legitimate organ through which the people, in their sovereignty, could speak. After an arduous struggle the States-right party succeeded; more than two thirds of both branches of the Legislature favorable to a convention were elected; a convention was called—the ordinance adopted. The convention was succeeded by a meeting of the Legislature, when the laws to carry the ordinance into execution were enacted—all of which have been communicated by the President, have been referred to the Committee on the Judiciary, and this bill is the result of their labor.

Having now corrected some of the prominent misrepresentations as to the nature of this controversy, and given a rapid sketch of the movement of the State in reference to it, I will

next proceed to notice some objections connected with the ordinance and the proceedings under it.

The first and most prominent of these is directed against what is called the test oath,¹ which an effort has been made to render odious. So far from deserving the denunciation that has been levelled against it, I view this provision of the ordinance as but the natural result of the doctrines entertained by the State, and the position which she occupies. The people of Carolina believe that the Union is a union of States, and not of individuals; that it was formed by the States, and that the citizens of the several States were bound to it through the acts of their several States; that each State ratified the Constitution for itself, and that it was only by such ratification of a State that any obligation was imposed upon its citizens. Thus believing, it is the opinion of the people of Carolina that it belongs to the State which has imposed the obligation to declare, in the last resort, the extent of this obligation, as far as her citizens are concerned; and this upon the plain principles which exist in all analogous cases of compact between sovereign bodies. On this principle the people of the State, act-

ing in their sovereign capacity in convention, precisely as they did in the adoption of their own and the Federal Constitution, have declared, by the ordinance, that the acts of Congress which imposed duties under the authority to lay imposts, were acts not for revenue, as intended by the Constitution, but for protection, and therefore null and void. The ordinance thus enacted by the people of the State themselves, acting as a sovereign community, is as obligatory on the citizens of the State as any portion of the Constitution. In prescribing, then, the oath to obey the ordinance, no more was done than to prescribe an oath to obey the Constitution. It is, in fact, but a particular oath of allegiance, and in every respect similar to that which is prescribed, under the Constitution of the United States, to be administered to all the officers of the State and Federal Governments; and is no more deserving the harsh and bitter epithets which have been heaped upon it than that or any similar oath. It ought to be borne in mind that, according to the opinion which prevails in Carolina, the right of resistance to the unconstitutional acts of Congress belongs to the State, and not to her individual citizens; and that, though the

latter may, in a mere question of *meum* and *tuum*, resist through the courts an unconstitutional encroachment upon their rights, yet the final stand against usurpation rests not with them, but with the State of which they are members; and such act of resistance by a State binds the conscience and allegiance of the citizen. But there appears to be a general misapprehension as to the extent to which the State has acted under this part of the ordinance. Instead of sweeping every officer by a general proscription of the minority, as has been represented in debate, as far as my knowledge extends, not a single individual has been removed. The State has, in fact, acted with the greatest tenderness, all circumstances considered, toward citizens who differed from the majority; and, in that spirit, has directed the oath to be administered only in the case of some official act directed to be performed in which obedience to the ordinance is involved. * * *

It is next objected that the enforcing acts have legislated the United States out of South Carolina. I have already replied to this objection on another occasion, and will now but repeat what I then said: that they have been legislated out only to the extent that they had

no right to enter. The Constitution has admitted the jurisdiction of the United States within the limits of the several States only so far as the delegated powers authorize; beyond that they are intruders, and may rightfully be expelled; and that they have been efficiently expelled by the legislation of the State through her civil process, as has been acknowledged on all sides in the debate, is only a confirmation of the truth of the doctrine for which the majority in Carolina have contended.

The very point at issue between the two parties there is, whether nullification is a peaceful and an efficient remedy against an unconstitutional act of the General Government, and may be asserted, as such, through the State tribunals. Both parties agree that the acts against which it is directed are unconstitutional and oppressive. The controversy is only as to the means by which our citizens may be protected against the acknowledged encroachments on their rights. This being the point at issue between the parties, and the very object of the majority being an efficient protection of the citizens through the State tribunals, the measures adopted to enforce the ordinance, of course received the most decisive character. We were

not children, to act by halves. Yet for acting thus efficiently the State is denounced, and this bill reported, to overrule, by military force, the civil tribunal and civil process of the State! Sir, I consider this bill, and the arguments which have been urged on this floor in its support, as the most triumphant acknowledgment that nullification is peaceful and efficient, and so deeply intrenched in the principles of our system, that it cannot be assailed but by prostrating the Constitution, and substituting the supremacy of military force in lieu of the supremacy of the laws. In fact, the advocates of this bill refute their own argument. They tell us that the ordinance is unconstitutional; that it infracts the constitution of South Carolina, although, to me, the objection appears absurd, as it was adopted by the very authority which adopted the constitution itself. They also tell us that the Supreme Court is the appointed arbiter of all controversies between a State and the General Government. Why, then, do they not leave this controversy to that tribunal? Why do they not confide to them the abrogation of the ordinance, and the laws made in pursuance of it, and the assertion of that supremacy which they claim for the laws

of Congress? The State stands pledged to resist no process of the court. Why, then, confer on the President the extensive and unlimited powers provided in this bill? Why authorize him to use military force to arrest the civil process of the State? But one answer can be given: That, in a contest between the State and the General Government, if the resistance be limited on both sides to the civil process, the State, by its inherent sovereignty, standing upon its reserved powers, will prove too powerful in such a controversy, and must triumph over the Federal Government, sustained by its delegated and limited authority; and in this answer we have an acknowledgment of the truth of those great principles for which the State has so firmly and nobly contended. * * *

Notwithstanding all that has been said, I may say that neither the Senator from Delaware (Mr. Clayton), nor any other who has spoken on the same side, has directly and fairly met the great question at issue: Is this a Federal Union? a union of States, as distinct from that of individuals? Is the sovereignty in the several States, or in the American people in the aggregate? The very language which we are compelled to use when speaking of our

political institutions, affords proof conclusive as to its real character. The terms union, federal, united, all imply a combination of sovereignties, a confederation of States. They never apply to an association of individuals. Who ever heard of the United State of New York, of Massachusetts, or of Virginia? Who ever heard the term federal or union applied to the aggregation of individuals into one community? Nor is the other point less clear—that the sovereignty is in the several States, and that our system is a union of twenty-four sovereign powers, under a constitutional compact, and not of a divided sovereignty between the States severally and the United States? In spite of all that has been said, I maintain that sovereignty is in its nature indivisible. It is the supreme power in a State, and we might just as well speak of half a square, or half of a triangle, as of half a sovereignty. It is a gross error to confound the *exercise* of sovereign powers with *sovereignty* itself, or the *delegation* of such powers with the *surrender* of them. A sovereign may delegate his powers to be exercised by as many agents as he may think proper, under such conditions and with such limitations as he may im-

pose ; but to surrender any portion of his sovereignty to another is to annihilate the whole. The Senator from Delaware (Mr. Clayton) calls this metaphysical reasoning, which he says he cannot comprehend. If by metaphysics he means that scholastic refinement which makes distinctions without difference, no one can hold it in more utter contempt than I do ; but if, on the contrary, he means the power of analysis and combination—that power which reduces the most complex idea into its elements, which traces causes to their first principle, and, by the power of generalization and combination, unites the whole in one harmonious system—then, so far from deserving contempt, it is the highest attribute of the human mind. It is the power which raises man above the brute—which distinguishes his faculties from mere sagacity, which he holds in common with inferior animals. It is this power which has raised the astronomer from being a mere gazer at the stars to the high intellectual eminence of a Newton or a Laplace, and astronomy itself from a mere observation of insulated facts into that noble science which displays to our admiration the system of the universe.* And shall this high power of the mind, which has effected

such wonders when directed to the laws which control the material world, be forever prohibited, under a senseless cry of metaphysics, from being applied to the high purposes of political science and legislation? I hold them to be subject to laws as fixed as matter itself, and to be as fit a subject for the application of the highest intellectual power. Denunciation may, indeed fall upon the philosophical inquirer into these first principles, as it did upon Galileo and Bacon, when they first unfolded the great discoveries which have immortalized their names; but the time will come when truth will prevail in spite of prejudice and denunciation, and when politics and legislation will be considered as much a science as astronomy and chemistry.

In connection with this part of the subject, I understood the Senator from Virginia (Mr. Rives) to say that sovereignty was divided, and that a portion remained with the States severally, and that the residue was vested in the Union. By Union, I suppose the Senator meant the United States. If such be his meaning—if he intended to affirm that the sovereignty was in the twenty-four States, in whatever light he may view them, our opinions will not disagree; but according to my con-

ception, the whole sovereignty is in the several States, while the exercise of sovereign power is divided—a part being exercised under compact, through this General Government, and the residue through the separate State Governments. But if the Senator from Virginia (Mr. Rives) means to assert that the twenty-four States form but one community, with a single sovereign power as to the objects of the Union, it will be but the revival of the old question, of whether the Union is a union between States, as distinct communities, or a mere aggregate of the American people, as a mass of individuals; and in this light his opinions would lead directly to consolidation. * * *

Disguise it as you may, the controversy is one between power and liberty; and I tell the gentlemen who are opposed to me, that, as strong as may be the love of power on their side, the love of liberty is still stronger on ours. History furnishes many instances of similar struggles, where the love of liberty has prevailed against power under every disadvantage, and among them few more striking than that of our own Revolution; where, as strong as was the parent country, and feeble as were the colonies, yet, under the impulse of liberty, and the

blessing of God, they gloriously triumphed in the contest. There are, indeed, many striking analogies between that and the present controversy. They both originated substantially in the same cause—with this difference—in the present case, the power of taxation is converted into that of regulating industry; in the other, the power of regulating industry, by the regulation of commerce, was attempted to be converted into the power of taxation.* Were I to trace the analogy further, we should find that the perversion of the taxing power, in the one case, has given precisely the same control to the Northern section over the industry of the Southern section of the Union, which the power to regulate commerce gave to Great Britain over the industry of the colonies in the other; and that the very articles in which the colonies were permitted to have a free trade, and those in which the mother-country had a monopoly, are almost identically the same as those in which the Southern States are permitted to have a free trade by the act of 1832, and in which the Northern States have, by the same act, secured a monopoly. The only difference is in the means. In the former, the colonies were permitted to have a free trade with all

countries south of Cape Finisterre, a cape in the northern part of Spain; while north of that, the trade of the colonies was prohibited, except through the mother-country, by means of her commercial regulations. If we compare the products of the country north and south of Cape Finisterre, we shall find them almost identical with the list of the protected and unprotected articles contained in the list of last year. Nor does the analogy terminate here. The very arguments resorted to at the commencement of the American Revolution, and the measures adopted, and the motives assigned to bring on that contest (to enforce the law), are almost identically the same.

But to return from this digression to the consideration of the bill. Whatever difference of opinion may exist upon other points, there is one on which I should suppose there can be none; that this bill rests upon principles which, if carried out, will ride over State sovereignties, and that it will be idle for any advocates hereafter to talk of State rights. The Senator from Virginia (Mr. Rives) says that he is the advocate of State rights; but he must permit me to tell him that, although he may differ in premises from the other gentlemen with whom he acts

on this occasion, yet, in supporting this bill, he obliterates every vestige of distinction between him and them, saving only that, professing the principles of '98, his example will be more pernicious than that of the most open and bitter opponent of the rights of the States. I will also add, what I am compelled to say, that I must consider him (Mr. Rives) as less consistent than our old opponents, whose conclusions were fairly drawn from their premises, while his premises ought to have led him to opposite conclusions. The gentleman has told us that the new-fangled doctrines, as he chooses to call them, have brought State rights into disrepute. I must tell him, in reply, that what he calls new-fangled are but the doctrines of '98; and that it is he (Mr. Rives), and others with him, who, professing these doctrines, have degraded them by explaining away their meaning and efficacy. He (Mr. R.) has disclaimed, in behalf of Virginia, the authorship of nullification. I will not dispute that point. If Virginia chooses to throw away one of her brightest ornaments, she must not hereafter complain that it has become the property of another. But while I have, as a representative of Carolina, no right to complain of the disavowal of the Sena-

tor from Virginia, I must believe that he (Mr. R.) has done his native State great injustice by declaring on this floor, that when she gravely resolved, in '98, that "in cases of deliberate and dangerous infractions of the Constitution, the States, as parties to the compact, have the right, and are in duty bound, to interpose to arrest the progress of the evil, and to maintain within their respective limits the authorities, rights, and liberties appertaining to them," she meant no more than to proclaim the right to protest and to remonstrate. To suppose that, in putting forth so solemn a declaration, which she afterward sustained by so able and elaborate an argument, she meant no more than to assert what no one had ever denied, would be to suppose that the State had been guilty of the most egregious trifling that ever was exhibited on so solemn an occasion.

THOMAS H. BENTON.*

OF MISSOURI.¹

(BORN 1782, DIED 1858).

ON THE EXPUNGING RESOLUTION² — UNITED
STATES SENATE, JANUARY 12, 1837.[†]

MR. PRESIDENT :

It is now near three years since the resolve was adopted by the Senate, which it is my present motion to expunge from the journal. At the moment that this resolve was adopted, I gave notice of my intention to move to expunge it; and then expressed my confident belief that the motion would eventually prevail. That expression of confidence was not an ebullition of vanity, or a presumptuous cal-

* For notes on Benton, see Appendix, p. 399.

† Benton in his *Thirty Years' View* very curiously gives an inaccurate date for his own resolution. He gives the 16th of March. The record of censure is to be read on the book under the black lines as plain to-day as ever. See Schouler's *United States History*, vol. iv., pp. 238, 239.

culatation, intended to accelerate the event it affected to foretell. It was not a vain boast, or an idle assumption, but was the result of a deep conviction of the injustice done President Jackson, and a thorough reliance upon the justice of the American people. I felt that the President had been wronged; and my heart told me that this wrong would be redressed! The event proves that I was not mistaken. The question of expunging this resolution has been carried to the people, and their decision has been had upon it. They decide in favor of the expurgation; and their decision has been both made and manifested, and communicated to us in a great variety of ways. A great number of States have expressly instructed their senators to vote for this expurgation. A very great majority of the States have elected senators and representatives to Congress, upon the express ground of favoring this expurgation. The Bank of the United States, which took the initiative in the accusation against the President, and furnished the material, and worked the machinery which was used against him, and which was then so powerful on this floor, has become more and more odious to the public mind, and

musters now but a slender phalanx of friends in the two Houses of Congress. The late Presidential election furnishes additional evidence of public sentiment. The candidate who was the friend of President Jackson, the supporter of his administration, and the avowed advocate for the expurgation, has received a large majority of the suffrages of the whole Union, and that after an express declaration of his sentiments on this precise point. The evidence of the public will, exhibited in all these forms, is too manifest to be mistaken, too explicit to require illustration, and too imperative to be disregarded. Omitting details and specific enumeration of proofs, I refer to our own files for the instructions to expunge,—to the complexion of the two Houses for the temper of the people,—to the denationalized condition of the Bank of the United States for the fate of the imperious accuser,—and to the issue of the Presidential election for the answer of the Union.

All these are pregnant proofs of the public will, and the last pre-eminently so: because, both the question of the expurgation, and the form of the process, were directly put in issue upon it. * * *

Assuming, then, that we have ascertained the

will of the people on this great question, the inquiry presents itself, how far the expression of that will ought to be conclusive of our action here.² I hold that it ought to be binding and obligatory upon us ; and that, not only upon the principles of representative government, which requires obedience to the known will of the people, but also in conformity to the principles upon which the proceeding against President Jackson was conducted when the sentence against him was adopted. Then everything was done with especial reference to the will of the people. Their impulsion was assumed to be the sole motive to action ; and to them the ultimate verdict was expressly referred. The whole machinery of alarm and pressure—every engine of political and moneyed power—was put in motion, and worked for many months, to excite the people against the President ; and to stir up meetings, memorials, petitions, travelling committees, and distress deputations against him ; and each symptom of popular discontent was hailed as an evidence of public will, and quoted here as proof that the people demanded the condemnation of the President. Not only legislative assemblies, and memorials from large assemblies, were then produced here as evi-

dence of public opinion, but the petitions of boys under age, the remonstrances of a few signers, and the results of the most inconsiderable elections were ostentatiously paraded and magnified, as the evidence of the sovereign will of our constituents. Thus, sir, the public voice was everything, while that voice, partially obtained through political and pecuniary machinations, was adverse to the President. Then the popular will was the shrine at which all worshipped. Now, when that will is regularly, soberly, repeatedly, and almost universally expressed through the ballot-boxes, at the various elections, and turns out to be in favor of the President, certainly no one can disregard it, nor otherwise look at it than as the solemn verdict of the competent and ultimate tribunal upon an issue fairly made up, fully argued, and duly submitted for decision. As such verdict, I receive it. As the deliberate verdict of the sovereign people, I bow to it. I am content. I do not mean to reopen the case, nor to recommence the argument. I leave that work to others, if any others choose to perform it. For myself, I am content; and, dispensing with further argument, I shall call for judgment, and ask to have execution done, upon that un-

happy journal, which the verdict of millions of freemen finds guilty of bearing on its face an untrue, illegal, and unconstitutional sentence of condemnation against the approved President of the Republic.

But, while declining to reopen the argument of this question, and refusing to tread over again the ground already traversed, there is another and a different task to perform; one which the approaching termination of President Jackson's administration makes peculiarly proper at this time, and which it is my privilege, and perhaps my duty, to execute, as being the suitable conclusion to the arduous contest in which we have been so long engaged. I allude to the general tenor of his administration, and to its effect, for good or for evil, upon the condition of his country. This is the proper time for such a view to be taken. The political existence of this great man now draws to a close. In little more than forty days he ceases to be an object of political hope to any, and should cease to be an object of political hate, or envy, to all. Whatever of motive the servile and time-serving might have found in his exalted station for raising the altar of adulation, and burning the incense of

praise before him, that motive can no longer exist. The dispenser of the patronage of an empire, the chief of this great confederacy of States, is soon to be a private individual, stripped of all power to reward, or to punish. His own thoughts, as he has shown us in the concluding paragraph of that message which is to be the last of its kind that we shall ever receive from him, are directed to that beloved retirement from which he was drawn by the voice of millions of freemen, and to which he now looks for that interval of repose which age and infirmities require. Under these circumstances, he ceases to be a subject for the ebullition of the passions, and passes into a character for the contemplation of history. Historically, then, shall I view him; and limiting this view to his civil administration, I demand, where is there a chief magistrate of whom so much evil has been predicted, and from whom so much good has come? Never has any man entered upon the chief magistracy of a country under such appalling predictions of ruin and woe! never has any one been so pursued with direful prognostications! never has any one been so beset and impeded by a powerful combination of political and

moneyed confederates ! never has any one in any country where the administration of justice has risen above the knife or the bowstring, been so lawlessly and shamelessly tried and condemned by rivals and enemies, without hearing, without defence, without the forms of law and justice ! History has been ransacked to find examples of tyrants sufficiently odious to illustrate him by comparison. Language has been tortured to find epithets sufficiently strong to paint him in description. Imagination has been exhausted in her efforts to deck him with revolting and inhuman attributes. Tyrant, despot, usurper ; destroyer of the liberties of his country ; rash, ignorant, imbecile ; endangering the public peace with all foreign nations ; destroying domestic prosperity at home ; ruining all industry, all commerce, all manufactures ; annihilating confidence between man and man ; delivering up the streets of populous cities to grass and weeds, and the wharves of commercial towns to the encumbrance of decaying vessels ; depriving labor of all reward ; depriving industry of all employment ; destroying the currency ; plunging an innocent and happy people from the summit of felicity to the depths of misery, want, and

despair. Such is the faint outline, followed up by actual condemnation, of the appalling denunciations daily uttered against this one MAN, from the moment he became an object of political competition, down to the concluding moment of his political existence.

The sacred voice of inspiration has told us that there is a time for all things. There certainly has been a time for every evil that human nature admits of to be vaticinated of President Jackson's administration; equally certain the time has now come for all rational and well-disposed people to compare the predictions with the facts, and to ask themselves if these calamitous prognostications have been verified by events? Have we peace, or war, with foreign nations? Certainly, we have peace with all the world! peace with all its benign, and felicitous, and beneficent influences! Are we respected, or despised abroad? Certainly the American name never was more honored throughout the four quarters of the globe than in this very moment. Do we hear of indignity or outrage in any quarter? of merchants robbed in foreign ports? of vessels searched on the high seas? of American citizens impressed into foreign service? of the

national flag insulted anywhere? On the contrary, we see former wrongs repaired; no new ones inflicted. France pays twenty-five millions of francs for spoliations committed thirty years ago; Naples pays two millions one hundred thousand ducats for wrongs of the same date; Denmark pays six hundred and fifty thousand rix-dollars for wrongs done a quarter of a century ago; Spain engages to pay twelve millions of reals vellon for injuries of fifteen years' date; and Portugal, the last in the list of former aggressors, admits her liability and only waits the adjustment of details to close her account by adequate indemnity. So far from war, insult, contempt, and spoliation from abroad, this denounced administration has been the season of peace and good will and the auspicious era of universal reparation. So far from suffering injury at the hands of foreign powers, our merchants have received indemnities for all former injuries. It has been the day of accounting, of settlement, and of retribution. The total list of arrearages, extending through four successive previous administrations, has been closed and settled up. The wrongs done to commerce for thirty years back, and under so many different Presidents, and indemnities

withheld from all, have been repaired and paid over under the beneficent and glorious administration of President Jackson. But one single instance of outrage has occurred, and that at the extremities of the world, and by a piratical horde, amenable to no law but the law of force. The Malays of Sumatra committed a robbery and massacre upon an American vessel. Wretches! they did not then know that JACKSON was President of the United States! and that no distance, no time, no idle ceremonial of treating with robbers and assassins, was to hold back the arm of justice. Commodore Downes went out. His cannon and his bayonets struck the outlaws in their den. They paid in terror and in blood for the outrage which was committed; and the great lesson was taught to these distant pirates—to our antipodes themselves,—that not even the entire diameter of this globe could protect them, and that the name of American citizen, like that of Roman citizen in the great days of the Republic and of the empire, was to be the inviolable passport of all that wore it throughout the whole extent of the habitable world. * * *

From President Jackson, the country has first learned the true theory and practical intent of

the Constitution, in giving to the Executive a qualified negative on the legislative power of Congress. Far from being an odious, dangerous, or kingly prerogative, this power, as vested in the President, is nothing but a qualified copy of the famous veto power vested in the tribunes of the people among the Romans, and intended to suspend the passage of a law until the people themselves should have time to consider it.* The qualified veto of the President destroys nothing; it only delays the passage of a law, and refers it to the people for their consideration and decision. It is the reference of a law, not to a committee of the House, or of the whole House, but to the committee of the whole Union. It is a recommitment of the bill to the people, for them to examine and consider; and if, upon this examination, they are content to pass it, it will pass at the next session. The delay of a few months is the only effect of a veto, in a case where the people shall ultimately approve a law; where they do not approve it, the interposition of the veto is the barrier which saves them the adoption of a law, the repeal of which might afterwards be almost impossible. The qualified negative is, therefore, a beneficent power, intended as General Hamilton ex-

pressly declares in the *Federalist*, to protect, first, the executive department from the encroachments of the legislative department ; and, secondly, to preserve the people from hasty, dangerous, or criminal legislation on the part of their representatives. This is the design and intention of the veto power ; and the fear expressed by General Hamilton was, that Presidents, so far from exercising it too often, would not exercise it as often as the safety of the people required ; that they might lack the moral courage to stake themselves in opposition to a favorite measure of the majority of the two Houses of Congress ; and thus deprive the people, in many instances, of their right to pass upon a bill before it becomes a final law. The cases in which President Jackson has exercised the veto power have shown the soundness of these observations. No ordinary President would have staked himself against the Bank of the United States and the two Houses of Congress in 1832. It required President Jackson to confront that power—to stem that torrent—to stay the progress of that charter, and to refer it to the people for their decision. His moral courage was equal to the crisis. He arrested the charter until it could be got to the

people, and they have arrested it forever. Had he not done so, the charter would have become law, and its repeal almost impossible. The people of the whole Union would now have been in the condition of the people of Pennsylvania, bestrode by the monster, in daily conflict with him, and maintaining a doubtful contest for supremacy between the government of a State and the directory of a moneyed corporation.

* * *

Sir, I think it right, in approaching the termination of this great question, to present this faint and rapid sketch of the brilliant, beneficent, and glorious administration of President Jackson. It is not for me to attempt to do it justice; it is not for ordinary men to attempt its history. His military life, resplendent with dazzling events, will demand the pen of a nervous writer; his civil administration, replete with scenes which have called into action so many and such various passions of the human heart, and which has given to native sagacity so many victories over practised politicians, will require the profound, luminous, and philosophical conceptions of a Livy, a Plutarch, or a Sallust. This history is not to be written in our day. The contemporaries of such events

are not the hands to describe them. Time must first do its office—must silence the passions, remove the actors, develop consequences, and canonize all that is sacred to honor, patriotism, and glory. In after ages the historic genius of our America shall produce the writers which the subject demands—men far removed from the contests of this day, who will know how to estimate this great epoch, and how to acquire an immortality for their own names by painting, with a master's hand, the immortal events of the patriot President's life.

And now, sir, I finish the task which, three years ago, I imposed on myself. Solitary and alone, and amidst the jeers and taunts of my opponents, I put this ball in motion. The people have taken it up, and rolled it forward, and I am no longer anything but a unit in the vast mass which now propels it. In the name of that mass I speak. I demand the execution of the edict of the people; I demand the expurgation of that sentence which the voice of a few senators, and the power of their confederate, the Bank of the United States, has caused to be placed on the journal of the Senate; and which the voice of millions of freemen has ordered to be expunged⁴ from it.

APPENDIX.

NOTES.

JAMES OTIS.

1. James Otis was born at Barnstable, Massachusetts, February 5, 1724. He was graduated with honors at Harvard in 1743. He became a student of literature and law. The speech on the Writs of Assistance brought him into public notice, and he was soon after elected to the Colonial Assembly, to which position he was re-elected every year until nearly the close of his active life. In 1765 he represented Massachusetts in the Colonial Congress. In 1769 his public career came to a close. On account of a newspaper controversy, he was attacked in a darkened room in a public coffee-house by a dozen men, and wounded by a blow upon the head from which he never recovered. His health gave way and he was subject to frequent attacks of insanity. He was killed by lightning, May 23, 1783.

2. Otis' speech on the Writs of Assistance was delivered before the Superior Court of Massachusetts, in February, 1761. As the Seven Years' War, or "The French and Indian War," between England and France drew to a close, in 1761 and 1762, the British government determined to enforce anew the old commercial laws for the Colonies. These laws had always been obnoxious and had become almost obsolete. John Adams said of them: "They had been procured from time to time for a century before by a combination of selfish intrigues between West India planters and North American

royal governors. They never had been executed as revenue laws, and there never had been a time when they would have been, or could have been, obeyed as such." The Colonies had developed a profitable trade with the West Indies during the relaxation of these laws. In order to break up this trade and other trade in violation of the old Navigation Acts, the British government sent out an order in council directing the issue of Writs of Assistance, which writs would authorize custom-house officers to enter any man's house on suspicion of the concealment of smuggled goods. The legality of the writs was questioned and the court consented to hear argument. Otis was the colonial Advocate-General, an officer of the crown, whose place it was to defend the writs. But, as he believed them illegal and tyrannical, he refused to make an argument for that side of the case, resigned his lucrative office, and appeared for the people against the Writs.

For our account of this speech and the fragment here presented we are indebted to John Adams, who, while a young man of twenty-four, heard Otis before the court. The full speech was a legal argument of five hours' length, profound in its legal learning, fearless in its assertion of Colonial rights, and so fervid in its eloquence that the orator appeared to the young Adams "as a flame of fire." "Then and there," says Adams, "was the first scene in the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born."

It was chiefly on this speech that the fame of Otis rested. This brought him into prominence, and in the same year he was elected to the Colonial Legislature. In 1762 he published his *Vindication of Massachusetts Bay*, and in 1765 his *Vindication of the British Colonies*; also, in the latter year, his *Consideration on Behalf of the Colonists*. These are his principal works and John Adams said that they contained the complete apology for the American Revolution.

3. In the closing parts of John Adams' summary of Otis' speech he says: "He then examined the acts of trade, one by one and demonstrated, ~~that~~ if they were considered as revenue laws, they destroyed all our security of property, liberty, and life, every right of nature, and the English constitution, and the charter of the province. Here he considered the distinction between 'external and internal taxes,' at that time a popular and commonplace distinction. But he asserted that there was no such distinction in theory, or upon any principle but 'necessity.' The necessity that the commerce of the empire should be under one direction, was obvious. The Americans had been so sensible of this necessity, that they had connived at the distinction between external and internal taxes, and had submitted to the acts of trade as regulations of commerce, but never as taxations or revenue laws. Nor had the British government, till now, ever dared to attempt to enforce them as taxations or revenue laws. They had lain dormant in that character for a century almost. The Navigation Act he allowed to be binding upon us, because we had consented to it by our own legislature. Here he gave a history of the Navigation Act of the first of Charles II., a plagiarism from Oliver Cromwell. This act had lain dormant for fifteen years. In 1675, after repeated letters and orders from the king, Governor Leverett very candidly informs his Majesty that the law had not been executed, because it was thought unconstitutional, Parliament not having authority over us."

References :

1. John Adams' Letter to William Tudor, *Niles Register*, vol. 14, p. 139.
2. Tudor's *Life of Otis*.
3. Woodburn's *Causes of the American Revolution*, pp. 24,
25. "Johns Hopkins University Studies," 10th Series,
4. *Encyclopædia Britannica*, Art. on "Otis."

PATRICK HENRY.

1. Patrick Henry was born at Studley, Hanover County, Virginia, May 29, 1736. His education was received in a country school and under the tutorship of his father, who conducted a grammar school. He failed both as a planter and as a merchant, but in his days of store-keeping he was a great reader of history and a student of Butler's *Analogy* and the Bible. He studied law from three to nine months, and was admitted to the bar in 1760. In 1763 he won the celebrated case known as "The Parson's Cause."* This brought him clients and popularity. In 1765 he was elected to the Burgesses, where he sounded the keynote of independence in his resolutions, one of which was that "The General Assembly of this Colony has the sole right to lay taxes and impositions upon the inhabitants of this Colony." These resolutions are said to have been written on the fly-leaf of a law book, and it was during the debate upon them that occurred the dramatic incident which has long been familiar as one of the stories of the Revolution. In denouncing the Stamp Act while speaking on these resolutions, Henry exclaimed in thrilling tones: "Cæsar had his Brutus; Charles the First, his Cromwell; and George the Third ['Treason!'] shouted the Speaker; 'Treason!' 'Treason!' rose from all sides of the room] and George the Third may profit by their example. If this be treason make the most of it."

In 1773 Henry became a member of the Committee of Correspondence "for the dissemination of intelligence between the colonies." In 1774 he was a delegate to the Virginia Convention, and later in the same year to the First Continental Congress. On an early resolution in this Congress, "That in determining questions each Colony shall have one vote," we have another notable utterance of Henry's: "Government is

* See chapter iv. Tyler's *Life of Patrick Henry*.

dissolved. Fleets and armies show that government is dissolved. Where are your landmarks, your boundaries of Colonies? The distinctions between Virginians, New Yorkers, and New Englanders are no more. I am not a Virginian but an American. All America is thrown into one mass." This shows Henry's radical and revolutionary character, and it is interesting in comparison with his speech against the ratification of the Constitution in 1788. His objections to the Constitution, as is known, rested on the belief that instrument tended too much to nationalize and consolidate the States.

In 1775 Henry was a delegate to the Second Continental Congress. From 1777 to 1780 he was Governor of Virginia; from 1780 to 1784 he was in the Virginia Legislature, being again elected Governor of Virginia in 1784. In 1787 he was chosen as a delegate to the Constitutional Convention but did not attend. In 1788 he was a member of the Virginia Convention which ratified the Constitution, which Henry strenuously opposed. In 1794 he retired from public life, declining in that year an appointment to the United States Senate. He declined successively, in 1795, the Secretaryship of State and the Chief-Justiceship under Washington; in 1796, a re-election to the Governorship of Virginia, having already been elected five times to that office; in 1797, the mission to France under President Adams. Jefferson insinuated that these appointments were offered to Henry to secure his allegiance to the Federal party. He allowed himself again to be elected to the Legislature of Virginia in 1799, although he never lived to take his seat, in order to oppose the Virginia and Kentucky Resolutions of Jefferson and Madison. This would indicate a tendency to a change of political opinions since his speech against ratification in 1788. Henry died on June 6, 1799.

2. This speech was delivered in the Old Church at Richmond, Virginia, March 28, 1775. It has been called Patrick

Henry's individual declaration of war against Great Britain. On March 20, 1775, Virginia's second Revolutionary Convention met. On March 23d, the subject of military preparation came up, when Patrick Henry offered the following resolutions :

"1. *Resolved* : That a well regulated militia, composed of gentlemen and yeomen, is the natural strength and only security of a free government ; that such a militia in this Colony would forever render it unnecessary for the mother country to keep among us, for the purpose of our defense, any standing army or mercenary forces, always subversive of the quiet and dangerous to the liberties of the people, and would obviate the pretext of taxing us for their support.

"2. That such a militia is at this time especially necessary to protect our rights and liberties, which have been rendered insecure by the remissness of government in calling our Legislature together.

"3. That this Colony be immediately put into a posture of defense."

3. "These resolutions produced," says St. George Tucker, who was a visitor in the Convention, "an animated debate, in which Colonel Richard Bland, Mr. Nicholas, the treasurer, and I think Colonel Harrison, of Berkeley, and Mr. Pendleton were opposed to the resolution, as conceiving it to be premature."

Professor Tyler considers that this opposition was not so much to the resolutions themselves as to Henry's interpretation of them. "To that day no public body in America, and no public man, had openly spoken of war with Great Britain in any more decisive way than as a thing highly probable, indeed, but still not inevitable. At last Patrick Henry spoke of it, and he wanted to induce the Convention of Virginia to speak of it, as a thing inevitable. * * * 'Why talk of things being now done which can avert the war? Such things

will not be done. The war is coming ; it has come already.' Patrick Henry would have this Convention, by adopting his resolutions, virtually declare war itself. In this alone, it is apparent, consisted the real priority and offensiveness of Patrick Henry's position as a revolutionary statesman on the 23d of March, 1775. In this alone were his resolutions premature."—Tyler's *Life of Patrick Henry*, p. 122.

4. Our first traditional description of this speech was obtained by Henry Stephens Randall from a clergyman, who had it from an aged friend, also a clergyman, who heard the speech itself : " Henry rose with an unearthly fire burning in his eye. He commenced somewhat calmly, but the smothered excitement began more and more to play upon his features and thrill in the tones of his voice. The tendons of his neck stood out white and rigid like whipcords. His voice rose louder and louder, until the walls of the building, and all within them, seemed to shake and rock in its tremendous vibrations. Finally his pale face and glaring eyes became terrible to look upon. Men leaned forward in their seats, with their heads strained forward, their faces pale, and their eyes glaring like the speaker's. His last exclamation, ' Give me liberty or give me death ! ' was like the shout of the leader which turns back the rout of battle."—Tyler's *Henry*, p. 129.

For further discussion of this speech and its authenticity, see the following references :

1. Wirt's *Life of Patrick Henry*.
2. Tyler's *Life of Patrick Henry*.
3. Moore's *American Eloquence*, vol. i.
4. *Encyclopædia Britannica*.

SAMUEL ADAMS.

1. Samuel Adams was born in Boston, Mass., September 27, 1722. He was descended from the sturdy republican stock represented by the English Puritans of the time of James I. and Charles I. He studied at Harvard, receiving the degree of A.B. in 1740, of A.M. in 1743. His thesis for the Master's degree showed the bent of his political opinions. He defended the affirmative of the query, "Whether it be lawful to resist the supreme magistrate, if the commonwealth cannot otherwise be preserved?" In 1764 Adams was appointed to prepare the instructions of the town of Boston to their representatives in the General Assembly,—a protest against the taxing scheme of Parliament. This document contains probably the first public denial of the right of Parliament to tax the Colonies, a denial of Parliamentary supremacy, and a suggestion of the necessity of union. In 1765 he was elected to the Massachusetts Assembly. He remained a member and leader of this body, in uncompromising opposition to the British government, until his election to the Continental Congress in 1774. In 1768, while a member of the Massachusetts Assembly, he prepared the celebrated Circular Letter, addressed to the Speakers of the Houses of Assemblies in the other Colonies, one of the most important state papers of that time. In this period, also, he opposes Parliamentary representation of the Colonies, writes the Massachusetts resolves and the response in answer to Governor Bernard, suggests the non-importation scheme, and becomes a persistent speaker and writer for the patriot cause. For nine years following 1774 he was annually re-elected to the Continental Congress, during which time he was continually employed on committees to draft reports, protests, and other public papers. He was one of the earliest and most persistent advocates of independence, and was a signer of the Declaration. In 1780 he was a

member of the Convention which framed the Constitution of Massachusetts. From 1789 to 1794 he was Lieutenant-Governor of his State, and governor from 1794 to 1797. In politics he was an Anti-Federalist and Jeffersonian Republican. He died October 3, 1803.

2. This oration was delivered at the State House in Philadelphia, before a popular audience, August 1, 1776. A full copy of the speech is found in Moore's *American Eloquence*, vol. i.

3. "A nation of shopkeepers" is a celebrated description which Napoleon applied to Great Britain. This speech of Adams was translated into French and published in Paris. Napoleon probably borrowed the phrase.

4. Carthagera, in Spanish America, was attacked by a body of English and Colonial troops and ships. The Colonies north of the Carolinas were summoned to contribute aid. The expedition was unsuccessful. (See Jamieson's *Dictionary of United States History*, p. 115.)

5. Refers to the Articles of Confederation. But these had not yet been adopted by the States.

6. Bancroft has called Adams "the type and representative of the New England town-meeting." Hosmer says: "It was as a manager of men that Samuel Adams was greatest. Such a master of the methods by which a town-meeting may be swayed, the world has never seen."—*Life of Samuel Adams*, p. 363.

Adams entered Harvard with the purpose of preparing for the ministry, and a religious fervor and tendency are apparent in this speech. He was a Puritan of the Puritans, narrow and rigid in his opinions. Hosmer says: "His intensity of conviction, both religious and political, sometimes makes

him narrow. He can speak only in stern terms of a Tory ; scarcely otherwise of a Catholic or Episcopalian ; to free-thinkers like Franklin and Paine he did not find it easy to be cordial."—*Life of Samuel Adams*, p. 361.

Jefferson wrote of Adams :

"As a speaker Samuel Adams could not be compared with his living colleague and namesake [John Adams], whose deep conceptions, nervous style, and undaunted firmness made him truly our bulwark in debate. But Mr. Samuel Adams, although not of fluent elocution, was so rigorously logical, so clear in his views, abundant in good sense, and master always of his subject that he commanded the most profound attention whenever he rose in an assembly by which the froth of declamation was heard with the most sovereign contempt."

References :

1. Moore's *American Eloquence*, vol. i.
2. Hosmer's *Life of Samuel Adams*.
3. Wells' *Life of Samuel Adams*, 2 vols.
4. Bancroft's *History of the United States*.

ALEXANDER HAMILTON.

1. Alexander Hamilton was born in Nevis, one of the British West India Islands, January 11, 1757. His father was a Scotchman, his mother a French Huguenot. He left the West Indies in 1772, and in 1774 entered King's College, New York (now Columbia). He left college in 1776 to enter the Continental army, was aide-de-camp and private secretary to Washington until 1781, when he returned to New York to prepare for the practice of law. He was in the Continental Congress of 1782-3 ; in the Constitutional Convention of 1787 ; was Secretary of the Treasury from 1789 to 1795, when he

returned to the practice of law. He became commander of the United States army in 1798, under Washington ; and was murdered in a duel by Aaron Burr, and died July 12, 1804.

Hamilton's life is too well known to require enlarged description here. His life and character have profoundly influenced the history of his country, and they offer to the student of history a great and worthy subject of study. Hamilton's greatest services to his country were in the period of the old Confederation, in leading the States to "a more perfect union," and later, as Secretary of the Treasury, in restoring the public credit, and establishing the financial system of the United States. In the former period his most notable services were in the New York Convention in securing the adoption of the Constitution by that State, and in his contributions to the *Federalist*. Of the eighty-five papers of the *Federalist* Hamilton was the author of forty-nine. These papers are yet the ablest exposition of the Constitution and government of the United States. Of Hamilton's work as Secretary of the Treasury Webster said, at a public dinner in New York, March 10, 1831: "Hamilton smote the rock of the national resources, and abundant streams of revenue gushed forth. He touched the dead corpse of the public credit, and it sprang upon its feet. The fabled birth of Minerva from the brain of Jove was hardly more sudden or more perfect than the financial system of the United States as it burst forth from the conception of Alexander Hamilton."

2. This speech is made up of parts of two speeches delivered in the Convention of New York on June 24th and 27th, 1788. The first part is from a speech in opposition to a resolution offered by Mr. Livingston proposing an amendment to the Constitution. The proposed amendment was: "That no person shall be eligible as a Senator for more than six years in any term of twelve years, and that the Legislatures of the sev-

eral States should have power to recall their Senators, or either of them, and to elect others in their stead, to serve for the remainder of the term for which such Senator, or Senators, so recalled, were appointed." The part of the speech applying to this resolution extends to the bottom of page 47; and has for its subject the permanence, stability, and character of the Senate. The rest of the selection is from the speech of June 27, in opposition to an amendment whose object was to abridge the power proposed to be conferred upon Congress, relative to imposing excise and laying direct taxes. More extended extracts from these speeches may be found in Moore's *American Eloquence*, and in *Hamilton's Works*, vol. I., Lodge's edition.

3. Hamilton was subsequently accused of being a monarchist and of wishing to establish a monarchy in this country.

4. This passage very forcibly sets forth the principle of the limitation of powers between the State and Federal governments. The two sovereignties are both supreme, each in its sphere and over its legitimate objects. Who shall determine the sphere, or objects, over which the sovereignty of each is to be exercised?

5. "That New York did join the Union by vote of the first and only convention summoned to determine her action; that she did not wait to be coerced; that she did not even come in as a laggard like North Carolina, or with hardly conquered reluctance like Rhode Island,—must be attributed to the energy and ability of Hamilton more than to any other single cause."

"The convention went into committee of the whole to consider the Constitution part by part. In the long and difficult debates which ensued, the burden of the controversy was

sustained by Hamilton. Jay and Livingston gave aid from time to time, as able as it was welcome ; but it was Hamilton who, day after day, in a series of speeches as closely reasoned as they were fervent, bore the brunt of the battle and managed the tactics of his party. * * * Incredible as it may seem, there is abundant contemporary evidence that the audience listening to Hamilton's argumentative but eloquent harangues was more than once so visibly affected that tears stood in the eyes of many, and such men as Chancellor Kent could not find words too emphatic to express their admiration. Speeches which embodied the logic of *The Federalist* would hardly be expected to touch the pathetic chord ; thus we think at this day. But not so did people feel in 1788. It should be remembered, too, that Hamilton was by nature a very powerful orator,—one of the greatest that has lived in modern times. In the present instance he spoke upon subjects with which he was so exhaustively familiar, that he could pour forth his ideas in finished shape and consecutive course without forethought or preparation. Never in his life, probably, was he so deeply in earnest as upon this occasion ; his intense nature was wrought up to the extreme of interest. He spoke to persons in a similar frame of mind. * * * It is not incredible, then, that in the course of this dry constitutional discussion Hamilton called tears into the eyes even of disputants quite capable of following and criticising his most accurate logic, his most elaborate arguments. But a great loss and misfortune it is that no report of these speeches, nothing but the baldest outline and occasional jotting down of a striking sentence, has come down to us. In this respect Hamilton has suffered like the elder Pitt, with the additional misfortune, too, that the less noble forum, the less popular topics, and the greatness of the rest of his career have caused even the tradition of his fame as an orator to be half forgotten." (Morse's *Life of Hamilton*, vol. i. p. 249 *et seq.*)

Hamilton's greatest triumph in this convention was in the discussion on conditional ratification. His arguments led Melancthon Smith, Hamilton's ablest and most persistent opponent, to acknowledge that he was convinced, and that he wished to withdraw his motion for conditional ratification. It is seldom a party advocate so manfully acknowledges the strength of his opponent.

References :

Moore's *American Eloquence*, vol. i.

Morse's *Life of Alexander Hamilton*, vol. i.

Lodge's *Life of Hamilton*.

Lalor's *Cyclopædia of American History and Political Science*.

Hamilton's Works, vol. i.

Bancroft's *History of the Constitution*.

JAMES MADISON.

1. James Madison, the fourth President of the United States, was born near Port Royal, Virginia, March 16, 1751. He was graduated from Princeton College, New Jersey, in 1771, where he remained a year in graduate study. He was a close and diligent student, impairing his health by close application to his studies. In 1776 Madison was chosen as a delegate to the Virginia Convention, called to form the first constitution of the State; and in 1779 he was elected a delegate to the Continental Congress. He was in Congress until a year after the close of the war, constantly favoring such amendments to the Articles of Confederation as would give more power and respectability to Congress and the central government. He was particularly prominent in urging the

grant of authority to Congress to levy an impost duty for twenty years; and on the committee with Hamilton and Ellsworth, Madison drew up the address to the States on this subject,—one of the ablest State papers of that period. From 1784 to 1787 Madison was a member of the Legislature of Virginia. In this period he gave his best thought and energy to the task of securing a better and stronger central government. He was foremost in securing a resolution from the Virginia Legislature calling the Annapolis Convention of 1786, and he readily agreed with Hamilton to use this Convention as the occasion and the means of securing the greater Convention of 1787. The defects of the Confederation had led Madison to make a careful study of all historic confederacies, ancient and modern, and he came to the conclusion that no confederacy could be powerful, nor endure, which merely acted upon States and not upon individuals. Madison became a national statesman. He contributed as much as any other man to the discussions of the Constitutional Convention of 1787, and his *Journal of the Debates* of that body is the most valuable single contribution to American political history. Madison co-operated with Hamilton and Jay in the essays of *The Federalist*; he was the main defense of the Constitution against the assaults of Mason and Henry, in the Virginia Convention of 1788; and more than of any other man it may be said of Madison that he was the father and founder of the American Constitution.

From 1789 till his retirement from public life in 1817 his life is largely the history of his country. He was in Congress from 1789 to 1797, becoming, on the question of constitutional construction, a follower of Jefferson; from 1797 to 1801, he was in private life, becoming the author, in 1798, of the famous Virginia Resolutions; from 1801 to 1809 he was Secretary of State under Jefferson, and was President from 1809 to 1817. On retiring from the presidency he also retired from

public life, spending his remaining days in his country home in Virginia. He died on June 28, 1836.

See Rives' *Life and Times of Madison*, 3 vols.

Gay's *Life of James Madison*.

Standard histories and cyclopædias.

2. Madison was to the Convention of Virginia what Hamilton was to that of New York. Whether the Constitution should be ratified in Virginia depended more upon Madison than upon any other single man. He had to meet the opposition of men like Henry, Mason, Monroe, and Lee, men of the greatest influence in Virginia. He was powerfully aided by Marshall, and in the contest over nearly every clause of the Constitution the arguments of Madison and Marshall contain the best product of the best political minds of the Virginia convention. Our selection from Madison contains parts of a speech delivered on June 6, 1788. For the full speech and the discussion see Elliot's *Debates*, vol. iii.

3. On February 3, 1781, Congress sought to gain the consent of the States to a 5 per cent. *ad valorem* duty on imports, for no other purpose than to discharge the principal and interest of the Continental debt. Rhode Island refused her consent. In December, 1782, a special deputation was commissioned to Rhode Island to gain her consent to this reasonable allowance, which discontent in the army, clamor of public creditors, and the failure of loans had seemed to make absolutely necessary. The most notable attempt under the Confederation at securing a unanimous consent for a uniform revenue from the States, was that of April 18, 1783. On that day it was resolved by nine States, that it be recommended to the several States as indispensably necessary to the restoration of public credit, and to the punctual and honorable discharge of the public debts, to invest the United States, in Congress assembled, with a power to levy for the use of the United States

certain duties upon imported goods. Madison prepared the able address to the States on this occasion. But the effort was in vain, chiefly owing to the persistent refusal of Rhode Island. See Elliot's *Debates*, vol. i., page 96.

4. On June 21, 1783, after the disbanding of the army had begun, a few mutinous and drunken soldiers overawed Congress in Philadelphia. They demanded pay and threatened to seize the members. Congress had to appeal to the State government for protection, but the appeal was fruitless, and the members of Congress fled across the river to Princeton, N. J., where they resumed their sittings. The affair illustrated the disrepute and pitiable weakness of the Federal government. See Fiske's *Critical Period of American History*, p. 112; MacMaster's *History of the United States*, vol. i., pp. 183, 184.

5. A more careful and elaborate presentation of Madison's exposition of the Federal government is found in No. 39 of *The Federalist*, probably the best brief commentary to be found in political science on the character of the American Constitution.

ALBERT GALLATIN.

1. Albert Gallatin was born in Geneva, Switzerland, January 29, 1761. He was graduated from the University of Geneva in 1779. In 1780 he emigrated to the United States, though the usual reasons for emigrating did not hold in his case. He was a young man of competent fortune, good prospects, social position, and of strong family connection. In 1782 he became instructor in French in Harvard University; in 1785 he settled in western Pennsylvania; in 1787 he entered politics as an Anti-Federalist, in opposition to the adoption of the

Constitution. In 1793 he was elected to the United States Senate by votes of both political parties; but the Federalists in the Senate soon unseated him on account of a technical flaw in the duration of his citizenship. Gallatin took part in the Whiskey Insurrection in 1794, but he opposed violence and resistance to the government. He served in Congress from 1795 to 1801, where he was the acknowledged leader of the House Republicans. He was Secretary of the Treasury from 1802 to 1814; helped to negotiate the Treaty of Ghent in 1814; was United States Minister to France from 1816 to 1823; and in 1826-7 was Minister to Great Britain. In 1828 he returned to the United States and retired from public life. He became president of a bank in New York City, and he retained his interest in public affairs until his death. He died at Astoria, Long Island, August 12, 1849.

2. This speech was delivered in the Committee of the Whole, House of Representatives, April 26, 1796.

On April 19, 1794, President Washington appointed John Jay, Chief Justice of the United States, as a special envoy to England to make an effort to adjust commercial disputes with that country. Jay's treaty was negotiated November 19, 1794, but it was not received at Washington until after the adjournment of Congress in March, 1795. Washington submitted the treaty to the Senate in a special session summoned for that purpose and it was ratified by that body after a two weeks' secret debate, on June 24, 1795. The vote stood 20 to 10, exactly the two thirds necessary to the ratification of a treaty. As it was, the ratification was conditional upon the suspension of the article relating to the West India trade. This article provided that trade with the British West Indies should be allowed the United States only on condition that it be carried on in vessels of less than seventy tons burden; and in return for this concession the United States agreed not to

export to any part of the world, "molasses, sugar, coffee, cocoa, or cotton." These were supposed to be products of the English colonies only, and England's purpose was to prevent their being transmitted through the United States, and United States vessels, to foreign nations. England desired this carrying trade for her own vessels. It is evident from this that Jay did not know that cotton was then an article of export from the United States.

Notwithstanding the defects of the treaty Washington believed it was the best that could be obtained at the time, and he signed it, August 12, 1795.

The fierce opposition with which the treaty was received when its terms were made known to the public, is well known. State Legislatures declared the treaty unconstitutional; Jay was burned in effigy; Hamilton was stoned while advocating the treaty; Washington was called the "step-father of his country"; and the venerable John Rutledge, in a public speech in Charleston, charged Jay with being either a fool or a knave,—a rash utterance which cost Rutledge the confirmation to the Chief Justiceship to which he had been nominated when Jay resigned to become Governor of New York.

This popular opposition was represented in Congress, and a struggle there was inevitable. The struggle began, March 2, 1796, when the President proclaimed the treaty the law of the land and communicated it to the House in order that the necessary appropriations might be made to carry it into effect. An additional article to the treaty, in harmony with our conditional ratification, had been obtained on October 28, 1795, and the treaty with the amended article had come back from Great Britain fully ratified.* On the same day on which the Presi-

* The new clause on the West India trade was more favorable than at first, but we did not secure full commercial privileges with the British West Indies until 1830.

dent's communication was presented to the House Edward Livingston, of New York, offered a resolution calling on the President for Jay's instructions and other papers relating to the treaty. The first of the two great debates in the House on the British treaty occurred on this resolution. This discussion had little to do with the merits and demerits of the treaty, but it dealt with the question whether the House could rightfully participate in giving a treaty its effect. It was on this phase of the controversy that Gallatin made one of his great speeches,—not the one in our text—"the best constitutional speech on the Republican side."* "Gallatin did not claim on the part of the House an absolute right of review in every instance of negotiation, but that whenever the President and Senate include in a treaty matters confided by the Constitution to the Congress of the United States, an act of legislation will be necessary to confirm these articles; this act the House, as a co-ordinate branch, is perfectly competent to pass or reject at discretion, and that thus the absorption of legislative powers by the treaty-making organ would be obviated,"† It was understood that the Jay treaty contained provisions known to be in opposition to the will of the House, whose insertion in the treaty had been recommended by Hamilton with the express design of making laws by the more convenient combination of President and Senate instead of President and Congress.‡ The Republicans held that they had a right to prevent this, and they passed the Livingston resolution on March 24th by a vote of 62 to 37. But Washington refused, in a communication of March 30th, to submit the papers to the House, because, as a matter of precedent, he did not wish to acknowledge that the assent of the House was necessary to the validity and execu-

* Schouler.

† Schouler, *United States History*, vol. i., p. 309.

‡ Schouler, vol. i., p. 308.

tion of a treaty. Washington's answer was referred to the Committee of the Whole, the matter was again debated, and on April 7th the House resolved that it claimed no agency in the making of treaties, but that as a part of Congress it claimed the right of deliberating upon the expediency of carrying into effect a treaty which dealt with the subjects—like the regulation of commerce—given by the Constitution to the control of Congress.

The second debate lasted from April 15th to the 29th. This arose on a Federalist resolution that the necessary laws should be passed to carry the treaty into effect. This discussion went more into the merits of the treaty and is more interesting historically than the first discussion, which involved chiefly the constitutional question of the discretion of the House. Gallatin and Madison again led the Republican opposition, entering into the expediency of the treaty. Gallatin's March speech is an abler contribution to the constitutional aspects of the question than the one we have selected ; of the former Jefferson said that it was worthy of insertion in the *Federalist* as the only rational commentary on the treaty clauses of the American Constitution. The two speeches on this subject which we have selected are the best representative speeches of their respective sides. Gallatin spoke against the treaty on April 26, 1796, and Ames followed in defense of the treaty two days later.

An abbreviated summary of the other terms of the Jay treaty will be of use here :

1. Peace was re-declared.
2. The northern boundary was re-defined, and a commission was to settle disputes on the northeast boundary.
3. Free commerce with the Indians was to be open to both nations.
4. The Mississippi was to be open to both nations.
5. The United States was to compensate Great Britain for confiscated debts as far as State impediments prevented collections.
6. The United States

was to make restitution for captures by Genet privateers. 7. Aliens from either country might hold land in the other. 8. In case of war between the two countries debts should not be confiscated.

All these were unimportant or in the interest of Great Britain. In return we were favored by :

9. England was to evacuate the western posts by 1796. 10. And to indemnify the United States for unlawful captures.

3. This refers to the previous debate in March and the vote of April 7th. (See Historical Note.) The Federalist supporters of the treaty were in the minority.

4. For the rights and principles of postliminy, see Woolsey's *International Law*, pp. 256, 257, and other authorities on international law.

5. Laurens was a statesman of the Revolution, from South Carolina. In 1778 he undertook a mission as Minister to Holland to negotiate a commercial treaty. He was captured by a British frigate and imprisoned for fifteen months in the Tower in London. After his release in 1781, he was appointed by Congress as one of the American commissioners for negotiating the treaty of peace. He proceeded from London, joined Franklin, Adams, and Jay in Paris, and with them signed the preliminaries of the treaty, November 30, 1782.

6. John Adams was Minister to England from 1785 to 1787.

References :

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For consideration of Jay's Treaty see :

Lalor's *Cyclopædia of United States History and Political Science*.

Works of Jay.

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Whitelock's Life of Jay.

Schouler's History of the United States, vol. i.

Hildreth's History of the United States, vol. iv.

MacMaster's History of the United States, vol. ii.

Hart's Formation of the Union.

Andrews' History of the United States, vol. i.

FISHER AMES.

1. Fisher Ames was born at Dedham, Norfolk County, Massachusetts, April 9, 1758. He commenced the study of Latin when only six years of age, was admitted to Harvard College at twelve, in 1770. Graduating from Harvard in 1774, he devoted a few years to teaching. He pursued a course of law under William Tudor of Boston, and in 1781 he began the practice of law in Dedham. He became a student and writer on political affairs. In 1788 he was elected to the State Convention for ratifying the Constitution, and in 1789 was elected to the first Congress under the Constitution, remaining a member of the national House of Representatives during the eight years of Washington's administration. At the close of this administration he retired to Dedham, where he spent the rest of his life, giving his attention to the writing of political essays. In 1804 he was invited to the presidency of Harvard College, but he declined the invitation on account of failing health. He died on July 4, 1808, in his fiftieth year.

In politics Ames was an ardent Federalist, and a large part

of his literary and political labors were given to the publication of essays relating to the contest between Great Britain and revolutionary France, Ames urging that British success was essential to American liberty and prosperity.

2. Mr. Ames here speaks at considerable length on the constitutional right of the House to exercise its discretion.

3. In the omitted passage Ames treats of the charges that the treaty causes us to violate our obligation to France and that it surrenders our independence. He then maintains that the "hinge of the debate is on the point, not whether the treaty is good or otherwise, but whether it is intolerable and fatally pernicious." He urges that failure to execute the treaty would be a wanton breach of faith, an unprovoked violation of the treaty, producing serious moral results.

4. In the passages omitted here Ames answers in detail certain objections which had been raised to the treaty.

5. He emphasizes the indemnity promised by Great Britain for illegal seizures.

6. In this omitted passage Ames appeals to the fears of war and discusses the probability of war.

7. "No Congress had listened to so fine a speech as that in which Ames on April 28, 1796, supported the motion to appropriate money to carry the hated treaty into effect. Ames' health was broken, his spirits were gone. Yet he could not, as the time for voting drew near, keep silent. When he stood up to speak, the Republicans claimed a majority of six. When he sat down they hastened to adjourn lest the motion should be carried against them. When the vote was taken forty-nine were for the resolution and forty-nine against. The casting-vote of the chairman sent it from the Committee of the Whole to the House. There, on the

30th of April, a resolution declaring it expedient to pass the laws necessary to carry the treaty into effect was agreed to, 51 to 48."—MacMaster's *History of the People of the United States*, vol. ii., pp. 280, 281.

"Ames was the chief spokesman for the New England Federalists before their decadence, and in his day his speeches were highly esteemed. Ames had gloomy forebodings concerning the spread of French, or Jeffersonian, democracy in America; but his intensest feelings were uttered in plain and intentionally repressed language. Ames always believed that 'to be the favorite of an ignorant multitude a man must descend to their level'; and refusing so to do he lost some contemporary popularity, but checked certain dangerous tendencies. For literature, certainly, it was well that many leaders of thought should refuse to cater for an unenlightened popular applause."—Richardson's *American Literature*, vol. i., pp. 209, 210. See also Duykinck's *Cyclopædia of American Literature*.

Dr. Charles Caldwell, in his autobiography, thus speaks of Ames's eloquence: "He was decidedly one of the most splendid rhetoricians of the age. Two of his speeches, in a special manner,—that on Jay's treaty, and that usually called his 'Tomahawk speech' (because it included some resplendent passages on Indian massacres),—were the most brilliant and fascinating specimens of eloquence I have ever heard; yet have I listened to some of the most celebrated speakers in the British Parliament—among others, to Wilberforce and Macintosh, Plunket, Brougham, and Canning; and Dr. Priestley, who was familiar with the oratory of Pitt the father and Pitt the son, and also with that of Burke and Fox, made to myself the acknowledgement that, in his own words, the speech of Ames, on the British treaty, was the most bewitching piece of parliamentary oratory he had ever listened to."

References :

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Kirkland's *Memoir and Works of Ames*.

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Moore's *American Eloquence*, vol. i.

JOHN NICHOLAS.

1. "John Nicholas was born in Westmoreland County, Va., in 1763; was elected representative from Virginia in the Third Congress as a Democrat; was re-elected to the Fourth, Fifth, and Sixth Congresses, serving from December 2, 1793 to March 3, 1801; removed to Geneva, New York, and devoted himself to agricultural pursuits; was a member of the State Senate of New York, 1806-1809; was presiding judge of the Oneida County Court; superintended the education of a large family; and after a long illness, died at Geneva, New York, December 31, 1819."—*The Political Register and Congressional Directory*, compiled by Ben: Perley Poore.

Randall, in his *Life of Jefferson*, says: "No Virginia family contributed more to Mr. Jefferson's personal success than the powerful family of the Nicholases,—powerful in talents, powerful in probity, powerful in their numbers and union."

2. Historical Note: The Alien and Sedition Acts were a series of party measures passed by the Federalists in the summer of 1798. The publication of the X Y Z correspondence, in April of that year, had aroused a furor of opposition against France. The Jefferson Republican journalists and orators had been openly advocating French Republicanism and they had for some time been regarded as the French party in America. Many of their journalists were foreigners,

French, Scotch, and Irish ; and the anti-French feeling which now arose, directed by the party interests of the Federalists, found vent in hostile legislation.

There were three Alien Acts. The *first* extended the time required for naturalization from five to fourteen years. The *second* authorized the President to order out of the country all aliens whom he might judge dangerous to the peace and safety of the United States, or might suspect of any treasonable plot. The *third* provided that whenever any foreign nation was at war with the United States, all resident aliens, natives of the hostile nation, might, upon proclamation of the President, be arrested and removed.

These acts were objected to by the Republicans on constitutional grounds :

1. They interfered with the rights of the States to permit the importation or migration of such persons as the States might think proper, until the year 1808.

2. Aliens were under the jurisdiction and protection of the States wherein they lived. These acts usurped undelegated authority over them.

3. They interfered with the right of trial by jury.

The *Sedition Act* provided a fine not exceeding \$2,000 and imprisonment not exceeding two years, for printing or publishing any false, scandalous, and malicious libels against the Government of the United States or either House of Congress, or the President, with intent to defame them, or to bring them into contempt or disrepute, or to excite against them the hate of the good people of the United States, or to stir up sedition, or to excite any unlawful combination for opposing any law of the United States or any lawful act of the President, or to aid or encourage any hostile designs of any foreign nation against the United States.

The constitutional objections of the Republicans to this law were :

1. It restrained freedom of speech and of the press, which were guaranteed by the Constitution.

2. It enlarged the sphere of national law by recognizing the common law jurisdiction of the Federal courts in criminal matters.

This act was aimed at the Republican journalists, and it was put into vigorous execution. Several of these journalists were indicted and convicted for no greater offense than saying, for instance, that Adams "had completed the scene of ignominy which Washington began"; and that his administration was "worthy of derision and contempt." Federalist journals, however, were not interfered with.

The first Alien Act, the one relating to naturalization, was repealed in 1802; the other Alien Acts were framed to expire in two years. No prosecutions ever took place under them. The Sedition Act, also, was to expire in 1801.

Under the Sedition Act one could hardly criticise the policy of Congress, or the administration, without subjecting himself to the risk of prosecution and imprisonment. Livingston said its principle "would have disgraced the age of Gothic barbarity." All these acts were party measures designed for the purpose of using force and persecution against the party opposition. They reacted against the party which enacted them and were the chief cause of Federalist overthrow in 1800. Jefferson, Madison, and Gallatin organized and led the party opposition to these measures, and in 1798 they promulgated, as a kind of a party platform, the Virginia and Kentucky Resolutions, setting forth, as they interpreted them, the true constitutional powers of Congress, and showing how these acts transcended these legitimate powers. Petitions poured in on Congress in favor of the repeal of these acts. But the Federalists were heady and obstinate. A select committee of the House, with Goodrich as chairman, reported February 25, 1799, with reference to these petitions, not in favor of their

repeal but in their defense, urging that liberty was not license and that aliens had no constitutional rights as citizens but remained in the country only by favor. "A party caucus of the House determined to adopt this report without discussion; accordingly Gallatin, Nicholas, and Livingston, who spoke against it, were coughed down, or disturbed by unseemly conversation and laughter; and without adjournment, the Federalists voted to adopt the report by 52 to 48, and thus clearly committed themselves to the new policy." * It was upon this report that Nicholas spoke, February 25, 1799.

See Professor Johnston's article on "Alien and Sedition Laws," in Lalor's *Cyclopædia of United States History and Political Science*; Schouler's, MacMaster's, and Hildreth's *United States History*; Von Holst's *Constitutional History of the United States*; *Life of Jefferson*, by Morse, by Randall, by Parton; Hart's *Formation of the Union*.

3. This is called the "sweeping clause" of the Constitution,—it *sweeps* in all powers not otherwise included. The Republican doctrine of strict construction, based chiefly on the tenth amendment, was set forth by Madison and Jefferson in the Virginia and Kentucky Resolutions:

"That the general government created by the compact (the Constitution) is not the final judge of the extent of its powers; that would make its discretion, not the Constitution, the measure of its powers. But, as in all cases of compact having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

"That, by the Constitution Congress has power to punish treason, counterfeiting, piracies, felonies on the high seas, offenses against the laws of nations, and no other crimes whatever, and powers not delegated are retained."

* Schouler, vol. i., p. 426.

"No power over freedom of religion, speech, or press is delegated. It is expressly prohibited. The Sedition Act is therefore unauthorized and of no force."

The resolutions held, further, that the broad construction of the "sweeping clause" would destroy all the limits prescribed to the national power. "*These words,*" of the sweeping clause, "*subsidiary to the execution of limited powers ought not to be so construed as to give unlimited powers.*" For a full copy of these resolutions see *Elliot's Debates*, vol. iv., pp. 528-540; *Preston's Documents*, pp. 284-287.

4. This was one of the provisions of the law as finally passed, inserted at the instance of Bayard, of Delaware. The Federalists had said that a citizen should dare to utter what is true but dread to utter what is false. But none of them attempted to draw the line between political truth and falsehood, in the criticism of a political opponent. The attempt to do so would inevitably involve matters of opinion.

THOMAS JEFFERSON.

1. Thomas Jefferson was born in Albemarle County, Va., April 13, 1743. He was first elected to the Burgesses in 1768, and in 1773 he became a member of the Committee of Correspondence for Virginia. In 1775 he was a delegate to the Continental Congress, and in 1776 he became the "immortal author of the Declaration of Independence." He resigned his service in Congress in 1776, to take a seat in the Virginia Legislature, where he set forth the "fundamental principles of a government truly republican, in four great public measures: 1. The repeal of the laws of entail. 2. The abolition of primogeniture and equal partition of inheritances. 3. Relief from taxation for the support of established religion.

4. A system of general education. He attempted, also, to carry two other important measures : 1. Introduction of trial by jury into the Virginia Courts of Chancery. 2. The gradual emancipation of slaves. These measures mark a statesmanship of the truest and broadest character.

In 1779 Jefferson became Governor of Virginia, and in 1785 he succeeded Franklin as our Minister to Paris, and was abroad during the formation of our Constitution. He was Secretary of State from 1790 to 1793 ; Vice-President from 1797 to 1801 ; President from 1801 to 1809. After his presidency he lived in retirement at Monticello, with unabated interest in public affairs, until his death, July 4, 1826.

Jefferson was the author of the notable Ordinance of 1784, for the Northwest Territory, which was the forerunner of the more famous Ordinance of 1787 ; and in 1783 he secured the adoption of the system of coinage which is still in use in the United States. Jefferson may be called the founder of modern American democracy. His political principles are to be found in his first inaugural address, in the Declaration of Independence, in the political measures to which we have referred, and in other state papers and policies indicated by his public career. These principles have been briefly comprehended in the maxim of Jeffersonian democracy : " Equal rights for all, special privileges for none."

The material on Jefferson is voluminous. See his *Works ; Life* by Randall, by Morse, by Parton, by Tucker, by Smucker ; Abbott's *Lives of the Presidents ;* Brougham's *Eminent Statesmen ; The Statesman's Manual ;* the standard histories, reviews and magazine articles.

2. Jefferson was first elected President in 1800. His inaugural ceremonies, the first ever held in Washington, occurred March 4, 1801. He boldly proclaimed his principles of republican simplicity.

"He eschewed all pomp and ceremony designed artificially to distinguish the president from the people. Instead of driving to the Capitol in a coach and six, as had been the practice, he rode there on horseback, without a guard, or even a servant, in his train, dismounted without assistance, and hitched the bridle of his horse to a fence. Instead of opening Congress in the English fashion, with a speech to which a formal reply was expected, he sent his message by a private hand. Court etiquette was practically abolished, and the weekly levee with it. Titles of honor were not recognised as such. 'Excellency,' 'Honorable,' and even 'Mr.' were distasteful to him. 'If it be possible,' he said, 'to be certainly conscious of anything, I am conscious of feeling no difference between writing to the highest and the lowest being on earth.'"—Hon. John Bigelow in *Encyclopædia Britannica*.

"Jefferson's inaugural address remains a model of its kind; conciliatory, elevated in tone, full of hope and confidence in the American experiment; modest, nevertheless, as to personal merit."—Schouler's *United States History*, vol. i., p. 2.

Jefferson was not an orator; he never attempted the graces of delivery, nor to make an impression by public speech. It is thought that it was because of his lack of power in this direction that he instituted the change in the method of communicating with Congress,—changing from a speech in the presence of the two Houses to a written communication. For Jefferson was a facile and forcible writer, and his first inaugural address, in addition to its great historical interest, is an excellent specimen of English writing.

JOHN RANDOLPH.

1. John Randolph, of Roanoke, was born in Chesterfield County, Va., June 2, 1773. He attended school at Williamsburg and Princeton, and for a short time at Columbia College,

New York. In 1799 he was elected to the national House of Representatives, and continued a member of that body, with the exception of two terms, until 1825. In 1801 he became Chairman of the Ways and Means Committee of the House, and carried through the appropriation for the Louisiana purchase ; and he conducted for the House the impeachment of Judge Chase, 1804. In 1825 Randolph was elected to the United States Senate, and was a member of that body until 1827. In 1830 he was for a while Minister to Russia. He was again elected to Congress in 1832, but died at Philadelphia before he took his seat, on May 24, 1833.

Randolph was at first a radical Jeffersonian democrat, and was always an extreme advocate of States' rights. He accepted in full the Virginia and Kentucky Resolutions of 1798, and advocated forcible resistance to national authority, if need be. He was probably the most eccentric public man who had ever sat in our legislative halls. He had a grandiloquent style of oratory, was possessed of a caustic wit and great powers of sarcasm. He was the victim of bitter and ungovernable temper. He quarrelled with Jefferson and his party in 1806, and became the leader of a faction of the Republicans known as the "Quids," who opposed Jefferson's administration. He quarrelled successively with Madison, Monroe, and Clay, engaging in a famous duel with Clay in 1826.

2. On November 29, 1811, Mr. Porter, of New York, submitted a report to the House from the Committee on Foreign Affairs. This report is a valuable historical document, reviewing the commercial aggression of France, and especially of England, that led up to the War of 1812. The report breathed a warlike spirit, holding that the country "had borne with injury until forbearance had ceased to be a virtue ; and that the period has arrived, when, in the opinion of your Committee, it is the sacred duty of Congress to call forth the

patriotism and resources of the country. By the aid of these, and with the blessing of God, we confidently trust we shall be able to procure that redress which has been sought for by justice, by remonstrance, and forbearance, in vain." The report then closed with a series of resolutions. These called for a larger military establishment ; for an additional force of ten thousand troops ; for authorizing the President to accept the service of volunteers, and to call out detachments of the militia ; and for arming merchant vessels in self-defense.

This meant preparation for war. On December 6th and 9th Mr. Porter and Mr. Grundy, of Tennessee, spoke for these resolutions. On the 10th Mr. Randolph spoke in opposition.

The British views and the partiality for England set forth in this speech were first publicly indicated by Randolph in his speech on the Gregg Resolution, March 5, 1806, when he entered upon his career of opposition to the Republican administration. The Gregg Resolution looked toward commercial retaliation against Great Britain. From this time on it seems that Randolph stood ready to oppose what the administration party, led by Jefferson, Madison, and Gallatin, favored.

It is not improbable that the tone and substance of Randolph's speeches were considerably determined by the element of personal animosity and jealousy. Other speeches of Randolph, in addition to those already referred to, are the speech on the Yazoo Resolutions, in 1803 ; on the U. S. Bank, in 1816 ; on Internal Improvements and the Tariff, in 1824 ; and on the President's message, in 1826. The last was the speech which led to the duel with Clay, and may be called the "Blifil and Black George Speech," in which Randolph brought forward the charge of a political combination between John Quincy Adams and Clay in the election of 1824, which he called the "coalition of Blifil and Black George,

the combination, unheard of until now, of the Puritan and the blackleg."

3. Randolph here enters upon a comparison of the vigorous war spirit manifested by the Republicans of the House in 1811 with the submissive conduct of the House in 1805-6 under greater provocation from Spain. Spain had closed the mouth of the Mississippi in 1803, and had invaded our southwestern territory, according to the claims of the anti-Spanish party.

4. In closing his speech Grundy had said : " I am willing to receive the Canadian as adopted brethren ; it will have beneficial political effects ; it will preserve the equilibrium of the government. When Louisiana shall be fully peopled, the Northern States will lose their power ; they will be at the discretion of others ; they can be depressed at pleasure, and then this Union might be endangered. I, therefore, feel anxious, not only to add the Floridas to the South, but the Canadas to the North of this Empire."—*Annals of Congress*, 12th Congress, part i., p. 426.

5. Randolph here charges the war party with an intention of going to war merely for the sake of our direct export and import trade, while being willing to surrender our maritime rights as neutrals in other carrying trade. If we were to stand for our rights we should stand for them in full.

6. The Non-Intercourse Act, passed March 1, 1809, to be substituted for the Embargo. It was to continue until the next session of Congress, but was revised by the acts of June 28, 1809, May 1, 1810, and March 2, 1811. It forbade the entrance to American ports of public or private British or French vessels, all commercial intercourse with France or Great Britain, and the importation, after May 20, 1809, of goods grown or manufactured in France or Great Britain or their colonies.—Jameson's *Dictionary of U. S. History*.

7. "Peter Porcupine," a pseudonym for William Cobbett, a British journalist, who wrote in aid of the Federalists under Washington and Adams.

8. By 1810 the South was first beginning to notice the more rapid increase of population in the North. This was emphasized by the regular decennial apportionment bill based on the census of that year.

9. He emphasizes the dangers to be apprehended from the doctrine of equality which had made its way among the slaves through Yankee peddlers and other means.

10. Randolph now proceeds to notice the charge that there were certain men in the House and in the country who were unduly attached to Great Britain.

11. Randolph here refers to partialities we had shown to France, and to French violations of our hospitality and of our neutrality laws. Privateers had been fitted out for France in Savannah and other American ports, and France had confiscated much of our merchandise on the seas. Randolph held that instant war would have been the cry if England had done these things. Yet he seemed willing to ignore England's greater aggressions.

12. Randolph pleads for better defense at home before attempting an aggressive attack on Canada.

JOSIAH QUINCY.

1. Josiah Quincy was born in Boston, Feb. 4, 1772; was graduated from Harvard in 1790; studied law with William Tudor, and was admitted to the bar in 1793. He devoted considerable leisure time to the study of history and politics.

In 1804 he was elected to the State Senate, and in the fall of the same year to Congress, where he remained till 1813. Quincy was an extreme Federalist, and was a member of the "Essex Junto." His career in Congress was distinguished chiefly for his opposition to the Embargo, to the War of 1812, and to the admission of Louisiana. He was the recognized leader in the House of the Federalist minority. During the ten years following 1813 he was several years a member of the Massachusetts Legislature; in 1820 he was a member of the State Convention called to revise the Constitution. From 1823 to 1828 he was Mayor of Boston. From 1829 to 1845 he was President of Harvard College. From 1845 to his death, July 1, 1864, he lived a retired life, devoted to literary and social pursuits.

2. The Enabling Act, authorizing the people of the Territory of Orleans to form a Constitution and State Government, was first presented in the House of Representatives December 27, 1810. The bill passed the House on January 15, 1811. It was amended in the Senate by the insertion of the word "white" in the declaration "that the Convention should be chosen by the free male inhabitants," so as to exclude free colored people of mixed blood from voting. The House at first objected to the amendment, but finally receded, February 13, 1811. The State of Louisiana, formed from this Territory, adopted a Constitution and was admitted to the Union, April 8, 1812. It was during the debates on the Enabling Act that Quincy made this famous speech, January 14, 1811.

There was a medley of races in the proposed new State, of French, Spanish, Creoles, Negroes, Mulattoes, and Whites. Its admission was much more like admitting a "foreign State" than anything attempted before, especially since its territory was not a part of the original territory of the Union.

The New England Federalists, of whom Quincy was chief spokesman, were jealous of the extension of political power to the South and West. Gouverneur Morris, in the Constitutional Convention, had expressed alarm at the thought of the sceptre of political power passing from the East to the unsettled States of the West, if the latter were allowed equal representation with the old States. It was for this reason that many Northern and Eastern statesmen opposed the extension of slavery,—not merely because they looked upon slavery as a great evil and a dangerous institution, but primarily because the system of slave representation in Congress gave to the proposed new States in the Southwest an undue influence in national legislation. Mr. Quincy, while a member of the Massachusetts Legislature, had urged that State to propose an amendment to the Constitution rescinding the three-fifths compromise clause. Such an amendment would probably have resulted in a dissolution of the Union. Quincy does not emphasize his opposition to slavery in this speech; and we conclude that his opposition to the admission of Louisiana resulted from unwillingness to share the benefits of the Constitution with the “wild men of the West,” and from his eagerness to retain for the Eastern States the relative power which they then possessed. Schouler says: “Quincy, still young in service, survived all his political contemporaries. He lived long enough to recant these narrow views and to see and believe in the uprising of a great people, stretched from ocean to ocean, with one thought and one will to protect, to preserve, and to render the Union of these States immortal.”

—*United States History*, vol ii., p. 315.

See: *Annals of Congress*, 11th Congress, 3d Session.

Quincy's *Life of Josiah Quincy*.

Everett's *Oration on Josiah Quincy*.

The cyclopædias and standard histories.

3. “This declaration,” says Hildreth, “was the first

announcement on the floor of Congress of the doctrine of Secession." *

At this point in his speech, Mr. Quincy was called to order by Mr. Poindexter, delegate from the Mississippi Territory, for the words in italics. Mr. Quincy repeated and justified his remark, which, to save all misapprehension, he committed to writing. Some confusion followed, and Mr. Poindexter required the decision of the Chair, whether it was consistent with propriety of debate, to use such an expression. The Speaker, Mr. Varnum, decided that the latter part of Quincy's remark was contrary to the order of debate. Quincy appealed from the decision and was sustained by the House, in a vote of 56 to 53. Quincy then proceeded with his speech. For speeches in opposition to Quincy's see the *Annals of Congress*, 1810-11, 3d Sess., 11th Cong., especially the speeches of Poindexter of Mississippi, Rhea of Tennessee, and Wright of Maryland.

4. It will be seen that the South Carolina nullifiers were not without precedent for their compact theory of the Constitution. See also Hayne's speech, p. 244.

5. This theory as to Massachusetts' relation to the Union and of the citizen's guarantee to life, liberty, and property was, no doubt, generally accepted at the time, and it has never been seriously questioned since. But if Mr. Quincy intended to lay down the doctrine that the State of Massachusetts as such, had, as a partner in a business compact, a right of control with the other States in the disposition of the territories, his theory was not essentially different from that of Calhoun, which sets forth the extreme States' rights view. See Calhoun's speech on the Oregon Bill, 1848.

6. It may be interesting to speculate on what the framers of the Constitution would have thought of such propositions ;

* Hildreth's *United States History*, vol. ii., p. 315.

and more interesting still to reflect what they, and the New England Federalists of Quincy's day, would have thought of propositions to extend the Union to its present limits.

7. Mr. Quincy here discusses the right of the treaty-making power to provide for admission. By our treaty with France in 1803, by which we purchased Louisiana, it was agreed "that the inhabitants of the ceded territory shall be incorporated into the Union of the United States and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the meantime they shall be maintained in the free enjoyment of their liberty, property, and the religion they profess." Quincy held that the treaty-making power could not alienate an essential right; and that it was an essential right of the States to continue in the possession of that proportion of political power which the Constitution has secured to every State, modified only by internal increase.—See Speech, *Annals of Congress*, 3d Sess., 11th Congr., p. 538.

8. Quincy here expresses surprise and alarm that the Mississippi should have been referred to as a highway: "Good heavens! between what, Mr. Speaker? Why, the Eastern and Western States. So that all the Northwestern Territories, all the countries once the extreme western boundary of our Union, are hereafter to be denominated Eastern States."—*Annals of Congress*.

HENRY CLAY.

1. Henry Clay was born in Hanover County, near Richmond, Va., April 12, 1777. His early life was one of hardship, and on account of the toil of his boyhood he was after-

wards known as the "mill boy of the slashes." He removed to Kentucky in 1792, settling at Lexington. He was soon admitted to the bar, and he speedily gained a reputation on account of his power before a jury. He was a member of the Kentucky Legislature in 1803; a U. S. Senator from Kentucky in 1806-7. He became a member of the national House of Representatives in 1811, and from that time until his death, June 29, 1852, he was almost continuously in public life. He bore such a prominent part in the public councils that a sketch of his life would be but the history of this period. Clay was four times Speaker of the House, between 1811-1825; was Secretary of State from 1825 to 1829; was Senator again from 1836 to 1842, and from 1849 until his death. He took a prominent part in the negotiations at Ghent in 1814, and was four times a candidate for the presidency. His name is most prominently associated with the great political compromises of this period,—the Missouri Compromise of 1820; the Tariff Compromise, 1833; the Slavery Compromise, 1850. He was throughout his life the recognized leader of the Whig party, and was the promulgator of the "American System" described in the great Whig measures, the Bank, the Tariff, and Internal Improvements.

As a political orator in the forum Clay stood unrivalled in his day. His speeches have by no means the permanent value of Webster's; and they were not logical and profound. But his oratory had the magnetic quality which enabled him to enrapture audiences and win applause. Mr. Blaine, in his *Twenty Years of Congress*, says: "Mr. Clay was inevitably a leader. In all the discussions of the Senate in which constitutional questions were involved Mr. Clay instinctively deferred to Mr. Webster. In the parliamentary debates which concerned the position of parties and the fate of measures, which enchained the Senate and led captive the people, Mr. Clay was *facile princeps*. Mr. Webster argued the prin-

ciple, Mr. Clay embodied it in a statute. Mr. Webster's speeches are still read with interest and studied with profit. Mr. Clay's speeches swayed listening senates and moved multitudes, but reading them is a disappointment. Between the two the difference is much the same as that between Burke and Charles James Fox. Fox was the parliamentary debater of England, the consummate leader of his party. His speeches, always listened to and cheered by a crowded House of Commons, perished with their delivery. Burke could never command a body of followers, but his parliamentary orations form brilliant and permanent chapters in the political literature of two continents."—Vol. i., p. 107.

See also Schurz' *Life of Clay*; Colton's *Life and Speeches of Clay*; Moore's *American Eloquence*; Mathews' *Orators and Oratory*; Clay's *Works*.

2. This speech of Clay was delivered in committee of the whole House, on a bill proposing that twenty thousand men should be added to the existing military establishment. Clay was at this time Speaker of the House. When he came to Congress in 1811 he became immediately the recognized leader of the war party in the House, and as Speaker he organized the committees to promote the war policy. It was Clay's leadership which hastened the war. Madison was timid and desired to avoid war as long as possible; he was urged and forced into the war by the more radical young Republicans from the West and South, like Clay and Calhoun.

Both these young statesmen replied to Randolph and the opponents of the war, in 1811. Clay spoke again, in favor of an increase in the navy, on January 22, 1812. War was declared June 18, 1812. During the summer and fall of that year we met with a series of military reverses. When Congress met again in November and had heard the President's message reviewing the events of the year, bills to increase the army and navy gave occasion for a general discussion on the

merits of the war. The speech of Clay on the army bill, January 8 and 9, 1813, was especially in reply to Quincy, who had made a strong speech in opposition to the war. Mr. Schurz calls this speech one of Clay's greatest performances, and he especially commends the passage in eulogy of Jefferson. It is said that while speaking of our obligation to "our gallant tars" Clay put forth his whole melo-dramatic power and drew tears from the eyes of his listeners.

3. This refers to the "Essex Junto." See Jameson's *Dictionary of Am. Hist.* or Lalor's *Cyc. of United States Hist. and Polit. Sci.*

4. Clay here makes a comparison between the administration and the opposition.

5. See p. 182.

"John Henry had been sent by the Governor of British North America in January, 1809, to report upon the state of affairs and political feeling in New England. He remained until June and, in order to magnify his office, painted the New England disaffection to the Union in very high colors throughout his reports. Disappointed of the reward he had expected, he returned to the United States in 1812, and sold the letters and documents to President Madison for \$50,000. They, however, revealed no design at secession in New England."—Prof. Johnston, in Lalor's *Cyclopædia of United States History and Political Science.*

6. McKee's motion was made to embarrass the administration. Clay candidly admitted all the opposition claimed as to the injustice of France and our grievances against that nation, and he wished that we were in a position to resent these wrongs. He then discussed at some length England's orders in council and her practice of impressment.

For full copies of the speech, see *Annals of Congress*; Colton's and Mallory's *Life and Speeches of Clay*; Moore's *Eloquence.*

ROBERT Y. HAYNE.

1. Robert Young Hayne was born in Colleton District, South Carolina, November 10, 1791. He served for a short time as a soldier in the War of 1812; was elected to the State Legislature in 1814, and became Speaker of the South Carolina Assembly, in 1816. He accepted the office of Attorney-General of South Carolina while refusing the Attorney-Generalship of the United States. In 1822 he was elected to the U. S. Senate, retaining the Senatorship until he resigned, in 1832, to become Governor of his native State during the nullification troubles. He retired from the governorship in 1834, and continued in private life until his death, September 24, 1840.

Hayne was an able lawyer and a speaker of very pleasing address. Benton regarded him as a man of great natural gifts, "a ready and copious orator, of brilliant mind, quick to discern, and disposed to view things on the practical side." He became the champion on the floor of the Senate of the South Carolina doctrine of nullification. Calhoun was Vice-President and was, therefore, barred from the privileges of the floor. Benton intimates that Hayne was Calhoun's sword and buckler, and that he returned to the Senate every morning refreshed by nightly communion with the Vice-President, drawing supplies from the well-stored arsenal of Calhoun's more powerful and more subtle mind.

2. The debate between Webster and Hayne, January 20-30, 1830, is the most famous in American political annals, and, consequently, the literature of the subject is abundant. A knowledge of the merits of the discussion is essential to an intelligent conception of American constitutional and political development.

The debate arose on an amended resolution of Senator Foot, of Connecticut, requesting the Committee on Public Lands to inquire into the expediency of limiting the sales of the public

lands. This was taken as an intimation that the Eastern States were opposed to the policy of selling the public lands to settlers at easy rates, a policy which was creating and building up the agricultural communities in the West. Benton, a leader of the Western view, was anxious to have the Western settlers secure the lands on the easiest possible terms, and he was ready to effect a combination of the West and South for this purpose. The South was restive under the recent protective act of 1828, which she conceived to be in the interest of New England and to the detriment of the rest of the country. This legislation was looked upon, also, as an indication of a dangerous centralizing tendency as well as of a sectional purpose to dominate the revenue policy of the country. Consequently the South was ready to join the West, and Hayne was ready to co-operate with Benton in favoring the western policy. Benton charged upon New England jealousy of the West and a desire to retard its growth ; and he urged that the Government should continue to dispose of the public lands, and after paying the national debt with the proceeds, should still continue offering the remainder of the lands, not holding any for the sake of a permanent public revenue, but looking rather towards the erection of new Western States.

Benton's charges, seconded by Hayne, led to a wide range of debate. The leading subject of discussion, and that which gives the debate historic interest, was the question of nullification. Hayne had been an ardent opponent of the Tariff Act of 1824 and of the subsequent Act of 1828. In his resistance to the protective policy he now fell back on a construction of the Constitution which denationalized the central government. The debate is notable from the fact that it set forth the first clear statement of the constitutional principles upon which the North and South afterwards came into armed conflict. This debate for the first time clearly defined for the American people the great issue as to the character of their Constitution,—

whether it was an instrument of a national government, or merely articles of confederation for a league of states. Was the Union a *Bundes staat* or *Staaten bund*?

A study of the speeches will best lead to an understanding of the opposing views of the fundamental character of the Constitution. See, also, the Historical Note on Webster's Reply, p. 386.

3. The coalition referred to is the pretended bargain between the forces of Adams and Clay in the presidential election of 1824. See Randolph's reference to it. Note p. 370. Hayne also charged a coalition in 1824-5, between the East and the West, represented by the leaders, Adams and Clay, to exchange support for protection and internal improvements.—See Hart's *Formation of the Union*, p. 250; Lossing's *Cyclopædia of American History*; Lalor's *Cyclopædia of Political Science*; Johnston's *American Politics*.

4. In the omitted parts Hayne discusses the land sales, internal improvements, debt payment, Webster's attitude toward the South and his contrast between the slave and the free states. On all these subjects Southern constitutional scruples are indicated, and each topic is shown to have an incidental bearing upon the issue between a "consolidated" and a "federal" Union. The full speech of Hayne can be found in Moore's *American Eloquence*, vol. ii., p. 557.

5. Eustice, a party follower of Jefferson, Madison, and Monroe, was the first Democratic-Republican Governor of Massachusetts. He was elected over Harrison Gray Otis in 1823. His election marks an era,—the final disappearance of the Federalist Party. Soon after his election the Democratic Legislature of Massachusetts disavowed "the unwarrantable course pursued by this State during the late war."

6. Riego, a Spanish general and patriot. He served against

Napoleon ; was leader of the revolution in Southern Spain in 1820 ; was taken prisoner in the French invasion of 1823, and was put to death as a traitor.—*Century Cyclopædia of Names*.

7. Mr. Hayne next speaks of the Tariff and of Webster's record on that subject ; of the comparative devotion to the Union of the two sections ; eulogizing South Carolina ; of the War of 1812 and of the disloyal course of the Federalists during that war.

8. John Randolph.

9. Hayne here discusses the Virginian Resolutions of 1798, and eulogizes Madison as a constitutional authority.

10. He further uses Jefferson as authority, setting forth Jefferson's protest to the Legislature of Virginia, in December, 1825, in respect to Federal powers in relation to the tariff and internal improvements.

11. See Adams' *History of the United States*, vol. iv., chs. 17 and 18, for Federal Factions in New England, in this period ; especially pp. 411-413, for the occasion referred to.

12. From Burke's "Speech on American Taxation."

13. From the standpoint of his premises, Hayne was virtually correct in his conclusions. He saw the end to which the national view would lead. The supreme will of the American people is to-day exercised through the national government, not through the State governments, and this supreme will, or sovereignty, is without limitation. This fact comes, as Hayne asserted it would come, from the acceptance of the theory that "the Federal government, in all, or any, of its departments, should prescribe the limits of its own authority, and the States are bound to submit to the decision." True, the supreme will of the people has determined that, while national unity shall be preserved, large powers shall also be reserved to the

States. Constitutionally our national government is still, as it has always been, a government of limited powers; but the acceptance of the national theory was the acceptance of the national government as the agency through which the sovereign will is to be expressed and changes without limitation to be wrought out, if desired. The cause at stake in this debate marks a great turning-point in the history of the Republic. Would Hayne's theory have led to development, or to retrogression?

A quotation from Mr. Bryce is *apropos*: "The problems which all federalized nations have had to solve is how to secure an efficient central government and preserve national unity, while allowing scope for the diversities, and free play to the authorities, of the members of the Federation. It is, to adopt that favorite astronomical metaphor which no American panegyrist of the Constitution omits, to keep the centrifugal and centripetal forces in equilibrium, so that neither the planet States shall fly off into space, nor the sun of the central government draw them into its consuming fires. The characteristic merit of the American Constitution lies in the method by which it has solved this problem. It has given the National Government a direct authority over all citizens, irrespective of the State governments, and has therefore been able safely to leave wide powers to those governments. And by placing the Constitution above both the National and State governments, it has referred the arbitrations of disputes between them to an independent body, charged with the interpretation of the Constitution,—a body which is to be deemed, not so much a third authority in the government, as the living voice of the Constitution, the unfold of the mind of the people whose will stands expressed in that supreme instrument."—*American Commonwealth*, vol. i., p. 356.

"Hayne dashed into debate like the Mameluke cavalry upon a charge. There was a gallant air about him that could

not but win admiration. He never provided for retreat ; he never imagined it. He had an invincible confidence in himself which arose, partly from constitutional temperament, partly from previous success. His was the Napoleonic warfare ; to strike at once for the capitol of the enemy, heedless of danger or cost to his own forces. Not doubting to overcome all odds, he feared none, however seemingly superior. Of great fluency and no little force of expression, his speech never halted and seldom fatigued.

“ His oratory was graceful and persuasive. An impassioned manner, somewhat vehement at times, but rarely, if ever, extravagant ; a voice well modulated and clear ; a distinct, though rapid enunciation ; a confident, but not often offensive address ; these accompanying and illustrating language well selected, and periods well turned, made him a popular and effective speaker. Colonel Hayne was incontestably the most formidable of Mr. Webster’s opponents.”—March’s *Reminiscences of Congress*, pp. 100-101.

DANIEL WEBSTER.

1. Daniel Webster was born at Salisbury, N. H., January 18, 1782. He was of Scotch ancestry. He depended for his early education chiefly upon his mother. Of his early experience in the few winter schools which he attended he said : “ There was one thing I could not do : I could not make a declamation ; I could not speak before the school.” He was sickly in youth, too delicate for farm work, and much of his time was spent in fishing, hunting, and reading. By abstinence and frugality, his family were able to send him to college. He graduated at Dartmouth in 1801, studied law and was admitted to the bar in Boston in 1805. On account of

his father's desire he returned to Boscawen, N. H. In 1813 he entered Congress from New Hampshire, as a Federalist, retiring from congressional life in 1817, when he returned to Boston. He gained his national reputation by his famous argument before the Supreme Court, in the "Dartmouth College Case." From this time until his death, October 24, 1852, his life is public history. From 1823 to 1827 Webster was a member of the House of Representatives; from 1827 to 1841 he was a member of the U. S. Senate; from 1841 to 1843 he was Secretary of State under Harrison and Tyler; from 1845 until 1850, again a member of the Senate; from July 9, 1850, until his death, October 24, 1852, he was President Fillmore's Secretary of State.

2. It was on December 29, 1829, that Foot offered his resolution on the public lands. Noble, Woodbury, Holmes, Foot, and Benton, spoke briefly, in light skirmish, on the subject. On January 18, 1830, Benton delivered a labored speech attacking New England: "The West must still look to the solid phalanx of the South for succor," said Benton. On January 19th, Hayne followed Benton, joining in the attack and charging the East with opposing the interest of the West. The absurdity of the charge is seen in the fact that New England was also charged from the South with forming an unworthy coalition with the West to carry internal improvements and the tariff. But now New England was opposing easy settlements in the West in order to keep her own cheap labor at home in her protected factories. On the 20th January, Webster effectually replied to Hayne. "This first speech on Foot's resolution has been so obscured by the greatness of the second that it is seldom referred to and but little read. Yet it is one of the most effective retorts, one of the strongest pieces of destructive criticism, ever uttered in the Senate, although its purpose was simply to repel the

charge of hostility to the West on the part of New England." *

On January 21st, Webster requested that the discussion be postponed a week, on account of his engagement with an important case before the Supreme Court. Hayne objected to postponement. Putting his hand on his heart, Hayne said: "He had something there he wished to get rid of. The gentleman had discharged his fire in the face of the Senate, and he demanded an opportunity of returning the shot." "Then it was," says a Southern member of Congress, "that Mr. Webster's person seemed to become taller and bigger. His chest expanded and his eye-balls dilated. Folding his arms in a composed, firm, and most expressive manner, he exclaimed, 'Let the discussion proceed. I am ready. I am ready *now* to receive the gentleman's fire.'"† Hayne then delivered a part of the speech which we have used in this volume. "The friends of Colonel Hayne," says March, "were much elated at what they considered his brilliant debut, and confidently predicted his ultimate triumph. Mr. Webster's friends doubted and hoped." On Monday, January 25th, Hayne continued his speech. Upon its conclusion, after Webster had secured the floor for his reply, the Senate adjourned. Hayne's speech was the universal topic of conversation that afternoon and evening, and his party friends were buoyant and confident. Edward Everett relates a conversation which he had with Webster that evening before his great reply: "Mr. Webster conversed with me freely and at great length upon the subject of the reply, which he felt it necessary to make to Colonel Hayne's speech. He regarded that speech as an entirely unprovoked attack upon the Eastern States, which it was scarcely possible for him, as a New

* Lodge, *Life of Webster*, p. 173.

† March's *Reminiscences of Congress*.

England Senator, to leave unnoticed. He thought Colonel Hayne's speech, however, much more important in another point of view ; that is, as an exposition of a system of politics, which, in Mr. Webster's opinion, went far to change the form of government from that which was established by the Constitution, into that (if it could be called a government) which existed under the Confederation. He expressed his intention of putting that theory to rest forever, as far as could be done by an argument in the Senate Chamber." March also relates that on the morning of this speech Webster consulted Senator Bell, of New Hampshire, as to whether he should speak out fully his Constitutional opinion. Senator Bell, who was a confidential advisor of Webster, said : " It is a critical moment ; and it is time, it is high time that the people of this country should know what this Constitution is." " Then," replied Mr. Webster, " by the blessing of heaven they shall learn this day, before the sun goes down, what I understand it to be." March says : " Tuesday, January 26, 1830, is a day to be hereafter forever memorable in Senatorial annals. There never was before, in the city, an occasion of so much excitement. To witness this great intellectual contest, multitudes of strangers had for two or three days previous been rushing into the city, and the hotels overflowed. As early as nine o'clock of this morning, crowds poured into the Capitol in hot haste ; at twelve o'clock, the hour of meeting, the Senate Chamber,—its galleries, floors, and even lobbies,—was filled to its utmost capacity. The very stairways were dark with men who hung on to one another, like bees in a swarm. The House of Representatives was early deserted. An adjournment would have hardly made it emptier. Members all rushed to hear Mr. Webster, and no call of the House, or other parliamentary proceedings could compel them back. . . . The anxiety to hear the speech was so intense, irrepressible, and universal, that no sooner had the vice-president

assumed the chair, than a motion was made and unanimously carried, to postpone the ordinary preliminaries of Senatorial action, and to take up immediately the consideration of the resolution."—*Reminiscences of Congress*, pp. 132-135.

The most famous speeches of Webster, after the Reply to Hayne, are the following :

1. The Dartmouth College Case, March 10, 1818.
2. First Settlement of New England, December 22, 1820.
3. The Bunker Hill Monument, June 17, 1825.
4. The Murder of Captain White, April 6, 1830.
5. The Constitution not a Compact: Reply to Calhoun, February 16, 1833.
6. The Appointing and Removing Power, February 16, 1835.
7. Exclusion of Slavery from the Territories, August 12, 1848.
8. The Constitution and the Union: "The 7th of March Speech," March 7, 1850.

See E. P. Whipple's *Great Speeches of Webster*, and Everett's edition of *Webster's Works*.

3. In the Supreme Court.—See Historical Note, p. 387.

4. It has been said that Webster made no preparation for this speech, that he spoke as one inspired. He himself says: "The preparation for my reply to Hayne was already made upon the occasion of Mr. Foot's resolution to sell the public lands. Some years before that, Mr. McKinley, a Senator from Alabama, introduced a resolution into the Senate, proposing to cede the public domains to the States in which they were situated. It struck me at that time as being so unfair and improper, that I immediately prepared an argument to resist it. My argument embraced the whole history of the public lands and the Government's action in regard to them. . . . If Hayne had tried to make a speech to fit my notes,

he could not have hit it better. No man is inspired with the occasion ; I never was."—Harvey's *Reminiscences of Webster*, pp. 151, 152.

In this connection a conversation, related by Harvey, between Everett and Webster the evening before Webster's reply, is interesting : "Did you take notes, Mr. Webster, of Mr. Hayne's speech?" Mr. Webster took from his vest-pocket a piece of paper about as big as the palm of his hand, and replied : "I have it all ; that is his speech." Harvey, p. 151. Everett and other friends of Webster were afraid that he was not quite aware of the magnitude of the contest.

5. Webster did not hear Benton's speech.

6. Webster here speaks on the "Coalition," the Ordinance of 1787, Slavery, Southern feeling against the North, the Hartford Convention. He defends his record on the Western lands and internal improvements, and shows how New England had aided the West.

7. The Constitutional Convention of 1787, in transmitting to Congress the Constitution, accompanied it with a letter from which Webster quoted : "We kept steadily in view the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence.—See Elliot's *Debates*."

8. Webster here speaks upon the Tariff. One of the sharpest parts of Hayne's speech had been his arraignment of Webster for his inconsistency upon the tariff.

9. This is one of Mr. Webster's most splendid periods. The Massachusetts men, who had doubted Webster's ability to contend with Hayne, were reassured. "As he alluded to Massachusetts their feelings were strained ; and when, concluding his enconium upon the land of their birth, he turned, intentionally or otherwise, and his burning eye fell on them, they shed tears like girls."—March's *Reminiscences*.

10. Language of a toast proposed at a dinner in New York in honor of Jefferson's birthday. (Hodgin.)

11. Did Hayne say this? Did Webster deny the right of the people to resist unconstitutional laws? On what point did the debate hinge?

12. Compare with Lincoln's notable utterance at Gettysburg.

13. See Historical Note on Calhoun's speech on Nullification, p. 393.

14. In this omission Webster says: "At no time, and under no circumstances, has New England, or any State in New England, or any respectable body of persons in New England, or any public man of standing in New England, put forth such a doctrine as this Carolina doctrine." Is this true?—See *Quincy on Louisiana*, p. 182; Loring's *Nullification and Secession*, p. 124; Adams' *United States History*, vol. v., p. 326.

15. See Note 13 on Hayne's speech, p. 383.

16. Turenne and Vauban, military officers of Louis XIV. of France.

17. John Fries was a leader of the opposition, in Eastern Pennsylvania, in 1799, to the direct government tax on houses and lands. This tax was laid by Congress in July, 1798. These riots were known as "Fries' Rebellion." Fries was arrested, convicted of treason, and sentenced to be hung, but was afterwards pardoned.—See MacMaster's *History of the United States*, vol. ii., pp. 434-440; Schouler's *United States History*, vol. i., p. 447.

18. "This great speech marks the highest point attained by Mr. Webster as a public man. He never surpassed it, he never equalled it afterwards. It was his zenith intellectually,

politically, and as an orator. His fame grew and extended in the years which followed ; he won ample distinctions in other fields, he made many other splendid speeches, but he never went beyond the reply which he made to the Senator from South Carolina on January 26, 1830. . . . The weak places in his armor were historical in their nature. It was probably necessary, at all events Mr. Webster felt it to be so, to argue that the Constitution at the outset was not a compact between the States, but a national instrument, and to distinguish the cases of Virginia and Kentucky in 1799, and of New England in 1814, from that of South Carolina in 1830. The former point he touches upon lightly, the latter he discussed ably, eloquently, ingeniously, and at length. Unfortunately, the facts were against him in both instances. When the Constitution was adopted by the votes of States at Philadelphia, and accepted by the votes of States in popular conventions, it is safe to say that there was not a man in the country, from Washington and Hamilton on the one side, to George Clinton and George Mason on the other, who regarded the system as anything but an experiment entered upon by the States, and from which each and every State had the right peaceably to withdraw, a right which was very likely to be exercised."—Henry Cabot Lodge, *Life of Webster*, pp. 174-176.

References for the further study of Webster and the debate : G. T. Curtis' *Life of Webster* ; Lodge's *Life of Webster* ; Tufft's *Life of Webster* ; Everett's *Memoir* in vol. i., edition of *Webster's Works* ; Whipple's *Great Speeches of Webster* ; March's *Reminiscences of Congress* ; Gale's and Seaton's *Register of the Debates of Congress* ; Wilson's *Division and Reunion* ; Schouler's *United States History* ; Harvey's *Reminiscences of Webster* ; Appleton's *Cyclopædia of American Biography* ; Gale's and Seaton's *Register* ; George's *Select Speeches of Webster* ; Woodburn and Hodgkin's *Select Speeches of Burke and Webster* ; Bradley, *Orations and Arguments*.

JOHN C. CALHOUN.

1. John Caldwell Calhoun was born in Abbeville District, S. C., March 18, 1782. He was of Scotch-Irish extraction. He was graduated at Yale College in 1804, studied law, was admitted to the bar in 1807, commencing practice at Abbeville. He was elected to the State Legislature in 1808, and to Congress in 1811, where he remained until 1817. He was one of the ardent young leaders of the war party under Madison's administration. From this time until his death, his life, like that of Clay and of Webster, is but the public history of his country. He was Secretary of War under Monroe from 1817 to 1825; Vice-President from 1825 to 1832; U. S. Senator from 1832 to 1843; Secretary of State under Tyler, 1844-5; in 1845 he was re-elected to the Senate, of which body he remained a member until his death, March 31, 1850.

Calhoun will be chiefly remembered in American history as the author and defender of the doctrine of nullification, for his instrumentality in the annexation of Texas, and as the ablest and most pronounced defender of the institution of human slavery. His *Disquisition on Government and Discourse on the Constitution and Government of the United States*, is his ablest work, and it distinguishes him as one of the greatest political thinkers and philosophers of his age. He is reported to have said, in the later days of his life, "If you should ask me the word that I would wish engraven on my tombstone, it is '*Nullification*.'"

2. A brief chronological recapitulation of the chief events relating to the subject and occasion of this speech may be helpful:

1816, The first Tariff primarily for protection was adopted.

1824, This was modified, and increased still further, in the interest of protection.

- 1828, The "Tariff of Abominations." This discriminated against the South.
- 1828, Calhoun published his *Exposition of the Theory of Nullification*, for the South Carolina Legislature. This is known as "The South Carolina Exposition," and was the first open assertion of Nullification as a Constitutional right. See *Works of Calhoun*.
- 1830, April 13. Jackson's famous toast at the Jefferson Banquet: "The Union, it must and shall be preserved." Calhoun offered in reply: "The Union,—next to our liberty the most dear; may we all remember that it can only be preserved by respecting the rights of the States, and distributing equally the benefits and burdens of the Union."
- 1831, July 26, Calhoun issues his "Address to the People of South Carolina," from Fort Hill, reviewing the ground of nullification. This is sometimes known as "The Fort Hill Address." See *Works of Calhoun*.
- 1832, July 14. New Tariff, abolishing "abominations," but maintaining the principle of Protection, reverting to the basis of the Tariff of 1824. This new Tariff was to go into effect in March, 1833. It did not satisfy South Carolina.
- 1832, August 28. Appears Calhoun's Letter to Governor Hamilton, of South Carolina, reviewing the argument for nullification.
- 1832, November 24. The South Carolina Ordinance of Nullification is passed. It declared the Tariff Acts of 1828 and 1832 null and void in South Carolina; prohibited the payment of the duties under the acts after February 1, 1833; made an appeal to the United States Courts contempt of State Courts, punishable at the discretion of the latter; ordered every officer and juror to be sworn to support the ordinance; and gave warning that

if the U. S. Government should attempt to enforce the Tariff acts by the army and navy, South Carolina would no longer consider herself a member of the Union, but would set up a separate government.

- 1832, November. Jackson interpreted his re-election as an endorsement, not only of his attitude toward the Bank, but of his position on nullification ; and on
- 1832, December 11, he issues his Proclamation against Nullification.
- 1832, December. Hayne is made Governor of South Carolina, and Calhoun resigns the Vice-Presidency to become Senator.
- 1833, December 31. Governor Hayne issues a counter proclamation, urging upon the citizens of South Carolina that their primary allegiance is due to their State.
- 1833, January 16. In a special message, Jackson asks Congress for special power to enforce the revenue laws, to use the land and naval forces in their execution.

The "Force Bill," or, more properly, the *Revenue Enforcement Bill*, called by its enemies the "bloody bill," was then soon introduced. It provided for the forcible seizure of all vessels and cargoes arriving within the ports of South Carolina, and their detention until the duties were paid ; extended the jurisdiction of the United States Courts over such property within the State, authorizing penalties for attempts to dispossess the United States revenue officers ; and denied the jurisdiction of the State Courts ; and authorized the President to employ the military and naval forces and the militia of the United States in enforcement of the laws. The "Force Bill" became a law on March 2, 1833.

Meanwhile, Congress, from its meeting in December,

1832, was looking toward a modification of the tariff acts complained of. On December 27, 1832, the Verplanck Bill, the administration measure, was introduced into the House. This proposed to revert to the duties of 1816. On February 12, 1833, Clay introduced his Compromise Tariff Bill into the Senate. This proposed that after December 1, 1833, all *ad valorem* duties should be reduced one-tenth every two years until June 1, 1842, when a maximum of twenty per cent. should obtain. This bill displaced the Verplanck Bill in the House and was passed there on February 26, 1833. The Compromise Act passed the Senate by the co-operation of Calhoun and the nullifiers, and became a law on the same day with the Force Bill, March 2, 1833.

It is not evident therefore, which had the greater influence in inducing South Carolina to recede from her position, the determination of the Federal Government to enforce the laws, or the readiness which that government indicated to make concessions. It is evident that the spirit of conciliation was largely relied upon to restore peace and union in this "crisis." For, when the revenue enforcement bill was presented in the House on February 8th, by Mr. Campbell of the Judiciary Committee, the report of the Committee accompanying it asserted: "*When, therefore, a law is made by the government so oppressive and destructive to the interests of the people of one of these States, as to determine them to resist it at every hazard, it is evidence of the justice of their complaints, which should not be disregarded; and it is the bounden duty of the Legislature, instead of devising vigorous means to enforce it, to modify the obnoxious law.*"

This does not sound much like the spirit of enforce-

ment, and it was objected to by Mr. Stewart in the House as "nullification in all its length and breadth. A State was to be the judge of the law, and if she determined to resist it, that was to be taken as an evidence of its injustice, and so the government was bound further to modify the law ; *i. e.*, to knuckle and submit." *

It is useless to speculate as to which authority, State or National, would have prevailed if conciliation had not obtained and the issue had been left to force. That issue was not faced until a generation later. The principle was left undecided. Dr. Von Holst says that "if either party had a right to claim the victory, it certainly was not Jackson and the majority of Congress, but Calhoun and South Carolina."† It is not probable that South Carolina would have been supported in 1832 by the people of so many States as came to her support in 1861. In that case it is apparent that she would have been forced to recede and the national authority would have been maintained.

For further study of this subject see the Documents transmitted to Congress with the special message of President Jackson, January 16, 1833, found in Gales and Seaton's *Register of the Debates of Congress*, 1832-33, vol. ix., Part II., Appendix. Also Jenkins' *Life of Calhoun* ; Von Holst's *Life of Calhoun* ; *Calhoun's Works*, edited by Cralle ; Schouler's *United States History*.

3. The Test Oath Act of South Carolina was one of several acts designed to carry the Ordinance of Secession into effect.

* Gales and Seaton's *Register of Debates*, vol. ix., part ii., p. 1678.

† *Life of John C. Calhoun*, p. 106.

It may be found in Gales and Seaton's *Register of Debates*, vol. ix., p. 180 of Appendix. The substance of the required oath is set forth in Jackson's special message of January 16th, p. 147, Appendix, of the same volume.

4. Calhoun defends South Carolina against the charge of having acted precipitately, asserting that her peaceful resistance to the oppressive laws had extended over a period of twelve years.

5. Calhoun here examined in detail the provisions of the bill pointing out his objections.

6. This is a worthy tribute to the logical and analytical mind, such a mind as Calhoun himself possessed in the highest degree.

7. Calhoun here proceeds to answer some of the arguments which had been made on behalf of the bill: 1. That the bill ought to pass because the law must be enforced. He asks whether its advocates would enforce a law "without considering whether it be just or unjust, constitutional or unconstitutional?" 2. That the Union must be preserved at all hazards. He contends that this cannot be done by force.

7. The right to tax the Colonies *incidentally*, by the regulation of the commerce of the empire was conceded by the colonists before the Revolution. This power of incidental taxation was what Burke called "An instrument of empire." This was not to be turned into a "means of revenue" by direct taxation. Is Calhoun's analogy to the point? See Burke's *Speech on American Taxation*, and Franklin's *Testimony Before a Committee of the House of Commons*; Franklin's *Works*, and Woodburn's *Causes of the American Revolution*, "Johns Hopkins University Studies."

THOMAS H. BENTON.

1. Thomas H. Benton was born near Hillsborough, North Carolina, March 14, 1782. He studied at a grammar school and afterwards at the University of North Carolina. He moved with his mother's family, his father having died when Thomas was only eight years old, to Tennessee, settling twenty-five miles from Nashville. Benton studied law with St. George Tucker, entered the United States army in 1810, and was admitted to the bar in Nashville in 1811, under the patronage of Andrew Jackson, at that time Judge of the Supreme Court of Tennessee. During the war of 1812 he was aide-de-camp to Jackson. Owing to a quarrel and a duel between his brother, Jesse Benton, and General Carroll, in which Jackson acted as Carroll's second, Benton and Jackson were estranged for years. In 1815 Benton removed to St. Louis, resuming there the practice of the law and also establishing a newspaper, *The Missouri Inquirer*. He persistently advocated the admission of Missouri to the Union, in spite of her pro-slavery constitution. He was elected to the United States Senate in 1820, taking his seat March 5, 1821, serving in that body until 1851. His life during this period is closely associated with the history of the Senate,—a history which he presented to the public in his valuable *Thirty Years' View*. He was defeated for re-election to the Senate in 1850 on account of his indifference to the interests of slavery. In 1852 he appealed to the people of his Congressional district and was elected to Congress over all opposition. He was defeated for re-election in 1854; he then retired from active politics, for two years devoting himself to his literary pursuits. In 1856 he was the Democratic candidate for Governor of Missouri, but was defeated on account of divisions within his party. In 1856 he supported James Buchanan for President against his own son-in-law, John C. Fremont. He died in Washington, D. C., April 10, 1858.

In addition to the *Thirty Years' View*, which traces our political history from 1820 to 1850, Benton published *An Abridgment of the Debates of Congress* (15 vols.), abridging the debates from the foundation of the government to the compromise debate of 1850 ; also an *Examination of the Dred Scott Decision*.

2. The first public suggestion of " Jackson's war upon the Bank " was made in the President's message of December, 1829. He renewed this suggestion in his messages of 1830 and 1831. The Bank's charter did not expire until 1836, but these suggestions of opposition moved the friends of the Bank to make early application to have the institution re-chartered. A bill re-chartering the Bank passed both Houses of Congress in July, 1832. Jackson vetoed the bill. This bill, with its veto, brought the Bank issue into prominence in the campaign of 1832, and both parties, for and against the Bank, appealed to the country. In this stage of the controversy the friends of the Bank seemed to be on the aggressive, but evidently it was not good politics for them to force the issue. Jackson was triumphantly re-elected. He held this election as a vindication of his course and as a commission to destroy the Bank. He now renewed his opposition more aggressively in his annual message of December, 1832, bringing charges of insolvency against the Bank and questioning whether the government deposits were safe. The House expressed confidence in the safety of the deposits. But the President was determined to remove them from the care of the Bank. The law placed the power of removal with the Secretary of the Treasury, not with the President. Jackson removed two Secretaries and appointed a third in order to secure a Secretary who favored his policy and who would work his will.

In September, 1833, Jackson informed his Cabinet that the removal had been determined upon, it was his own decision, should be his own act for which he would be responsible.

Secretary Taney immediately issued the order of removal, directing that no more government moneys should be deposited with the Bank, or its branches, and that the ten millions of public money then in the Bank should be gradually drawn upon as usual.

The Senate resolution censuring President Jackson for the removal of the deposits was offered by Mr. Clay on December 26, 1833. The resolution was as follows :

Resolved, That, by dismissing the late Secretary of the Treasury, because he would not, contrary to his own sense of duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted him by the Constitution and laws, and dangerous to the liberties of the people.

On the 28th of March, 1834, this was changed to read :

Resolved, That the President, in the late executive proceedings in relation to the revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both.

The resolution was adopted in this form. President Jackson was not disposed to rest under this public censure. Accordingly he sent a " Protest " to the Senate setting forth his defense, which the action of the Senate had given him no other opportunity to make. This " Protest " the Senate refused to receive or to give a place upon the records. " From the moment of the Senate's condemnation of General Jackson, Mr. Benton gave notice of his intention to move the expunction of the sentence from the journal, periodically and continually until the object should be effected, or his political life come to its end." *

* Benton's *Thirty Years*, vol. i., p. 528.

Benton first made his formal motion in the session of '34-'35 as follows :

Resolved, That the resolution adopted by the Senate on March 28, 1834 (quoting the resolution given above), be, and the same hereby is, ordered to be expunged from the journals of the Senate ; because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification ; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer ; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States.

Two years later, in the last session of Congress during President Jackson's term, a majority of the Senate had become favorable to Jackson. Some States had superseded their Senators who had given the adverse votes, others had sent legislative instructions to vote for expunging. These instructions were supposed to carry with them the obligation of obedience or resignation. Mr. Benton gave early notice of his intention to bring in his unwelcome resolution and to press it to a decision. Heretofore, being in a minority in the Senate, Benton made his motion merely for the purpose of getting an opportunity to make a speech, to influence the public sentiment of the country. His opponents would press the motion to a vote, against Benton's desire, in order to "apply their majority to the case," to vote it down. But now the tables were turned ; Benton was for a decision, his opponents were for staving off. On December 26, 1836—the third anniversary of the day on which Mr. Clay had moved the resolution of censure—Mr. Benton laid before the Senate for the third time his motion to expunge :

"Resolved, That the said resolve be expunged from the journal ; and, for that purpose, that the Secretary of the Sen-

ate, at such time as the Senate may appoint, shall bring the manuscript journal of the session 1833-34 into the Senate, and, in the presence of the Senate, draw black lines round the said resolve, and write across the face thereof, in strong letters, the following words: 'Expunged by order of the Senate, this day of, in the year of our Lord 1837.'"

After animated debates, in which Clay, Webster, and Calhoun opposed expunging, the resolution was carried in a midnight session by a vote of 25 to 19.

"Mr. Benton then rose, and said that nothing now remained but to execute the order of the Senate, which he moved be done forthwith. It was ordered accordingly. The Secretary thereupon produced the original manuscript journal of the Senate, and opening at the page which contained the condemnatory sentence of March 28, 1834, proceeded in open Senate to draw a square of broad black lines around the sentence, and to write across its face in strong letters these words: 'Expunged by order of the Senate, this 16th day of January, 1837.'"

This speech of Benton's was his third and last upon this subject.

3. No President preceding Jackson had used the veto so frequently. Jackson vetoed as many bills—nine in all—as all his predecessors together. His vigorous use of the veto aroused opposition to this constitutional power of the President, and opposition to the veto became one of the bonds of union among the Whigs in their party opposition to Jackson. Benton thus felt called upon to defend the use which his chief had made of the veto.

4. The scene during the expunging operation was an interesting one. It is described at length in Benton's *Thirty Years'*

View, vol. i., p. 730. The chandelier was lit up and the galleries were crowded. As the Secretary began to draw the black lines around the journal, there was a storm of hisses and groans in the gallery over Senator Benton's head. On Benton's motion, the ringleader of the disorderly crowd was seized and brought to the bar of the Senate, after which the expunging process was performed in quiet.

Jackson took the greatest interest in the expunging resolution and debate. After his "vindication" he gave a dinner to the expunging Senators and their wives, leaving a sick-bed to welcome his guests, and honoring Benton as the "head expunger" by giving him his own place at the head of the table.

Mr. Theodore Roosevelt says of the expunging resolution :

" Few now would defend this resolution. The original resolution of censure may have been of doubtful propriety ; but it was passed, was entered on the record, and had become a part of the journal of the Senate. It would have been perfectly proper to pass another resolution condemning or reversing the original one, and approving the course of the president, but it was in the highest degree improper to set about what was in form falsifying the record. Still Benton found plenty of precedents in the annals of other legislative bodies for what he proposed to do, and the country, as a whole, backed him up heartily."—*Life of Benton*, pp. 139, 140.

" Benton discharged all sorts of missiles at the head of an adversary like a catapult. Tropes, metaphors, similes, unsavory allusions, vituperative epithets, damnatory personalities he hurled upon the victim of his temporary anger. He neither sought nor gave quarter ; one of the regular black Hussars of debate. His manner, if possible, was yet more excited than his language, and his voice more belligerent than

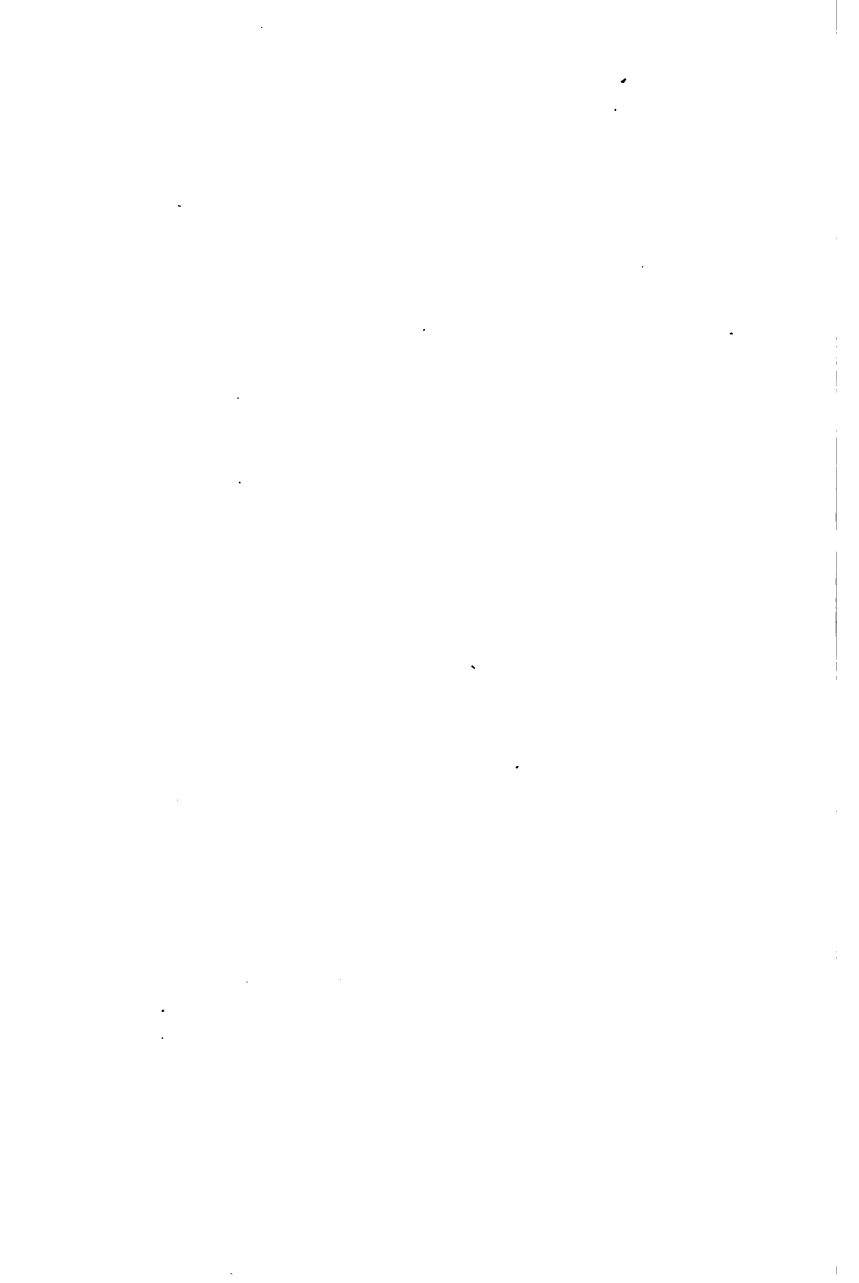
either. His whole attitude was defiance, and each gesture a provocation.

"His speech was as often extraordinary as his manner. He brought together such a mass of crude, undigested, indigestible compilations, overwhelming the subject matter in its accidents, so much useless accumulation, disjointed and inconsequent facts, impertinent allusions, and loose though labored analogies, one could not but imagine he had made a foray into the territory of history, and seized upon booty of which he neither knew the value nor cared for the destination.

"His egotism at times was almost ferocious ; it interpenetrated every part of his speech, and made it sometimes absurd, sometimes farcical, and always offensive. But whenever for a time he forgot himself in his subject, and became wholly absorbed in its consideration, he was an antagonist not to be despised. He had read much, he had observed much, he had hoarded much ; and all he had read, observed, or hoarded he held at a moment's command.

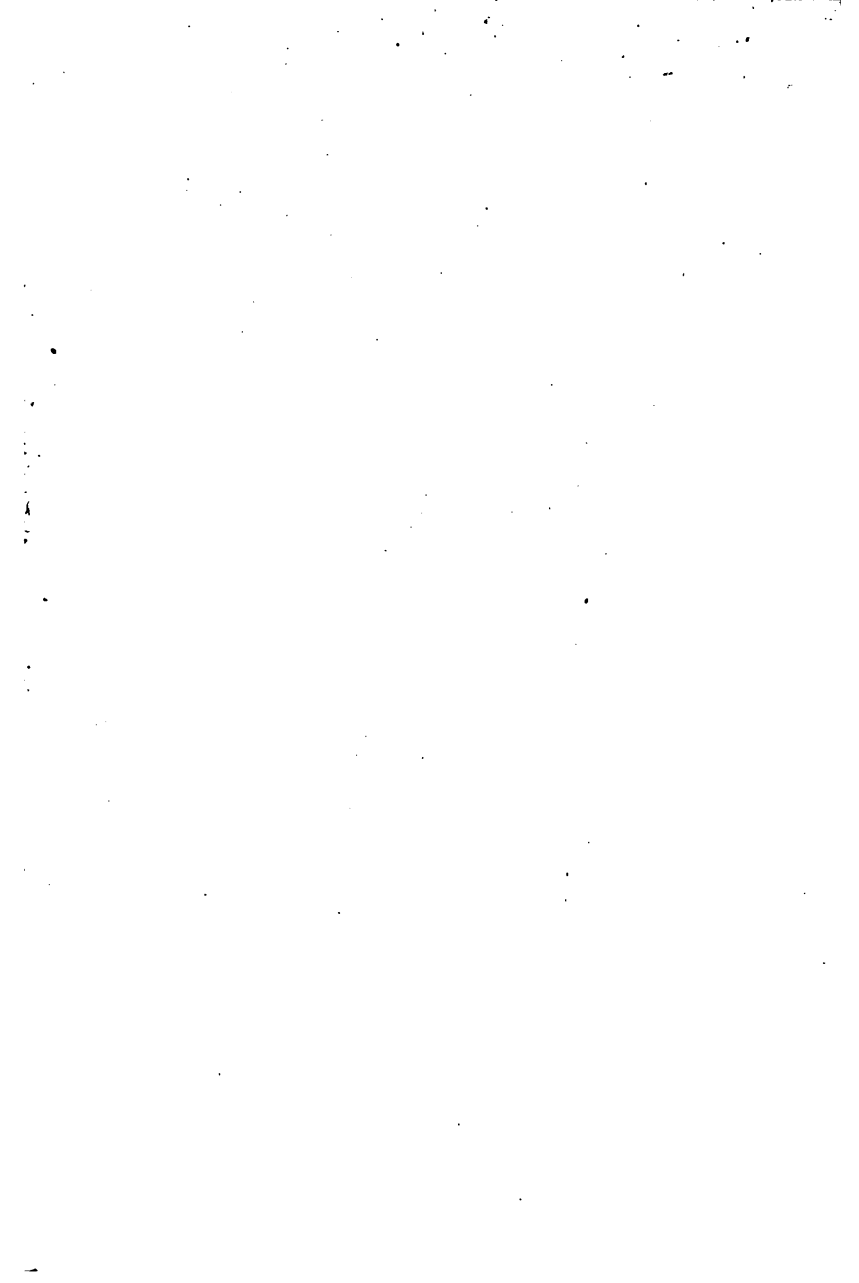
"I speak of him as he was. Twenty years have passed since then. The closer study of mankind, of books, and of himself has liberalized his temper, chastened his style, and subdued his manner. He commits no such solecism of thought or conduct as formerly. He arrogates less for his own position now, concedes more to his opponents. His speech is less discursive and more argumentative ; it neglects persons and embraces propositions ; is more suggestive, logical, and final. Still, though his deportment has more suavity, his manner more amenity, and his speech less personality than of old, he does not roar you now as gently an' 't were any nightingale. He is Boanerges still."—March's *Reminiscences of Congress*, pp. 97-99.

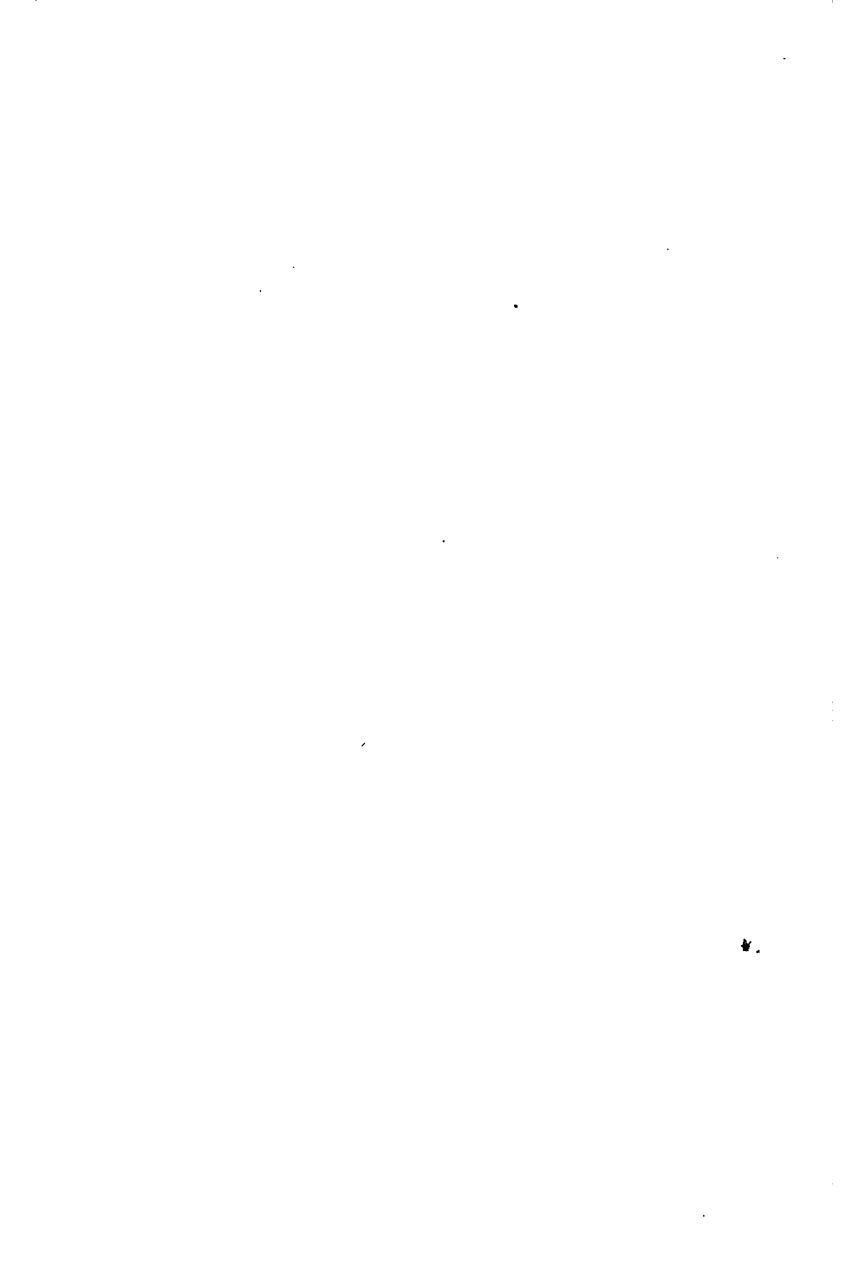
References : Benton's *Thirty Years' View*, vol. i. ; Roosevelt's *Life of Benton* ; Schouler's *History of the United States*, vol. iv. ; *Debates of Congress*, 1836-7.

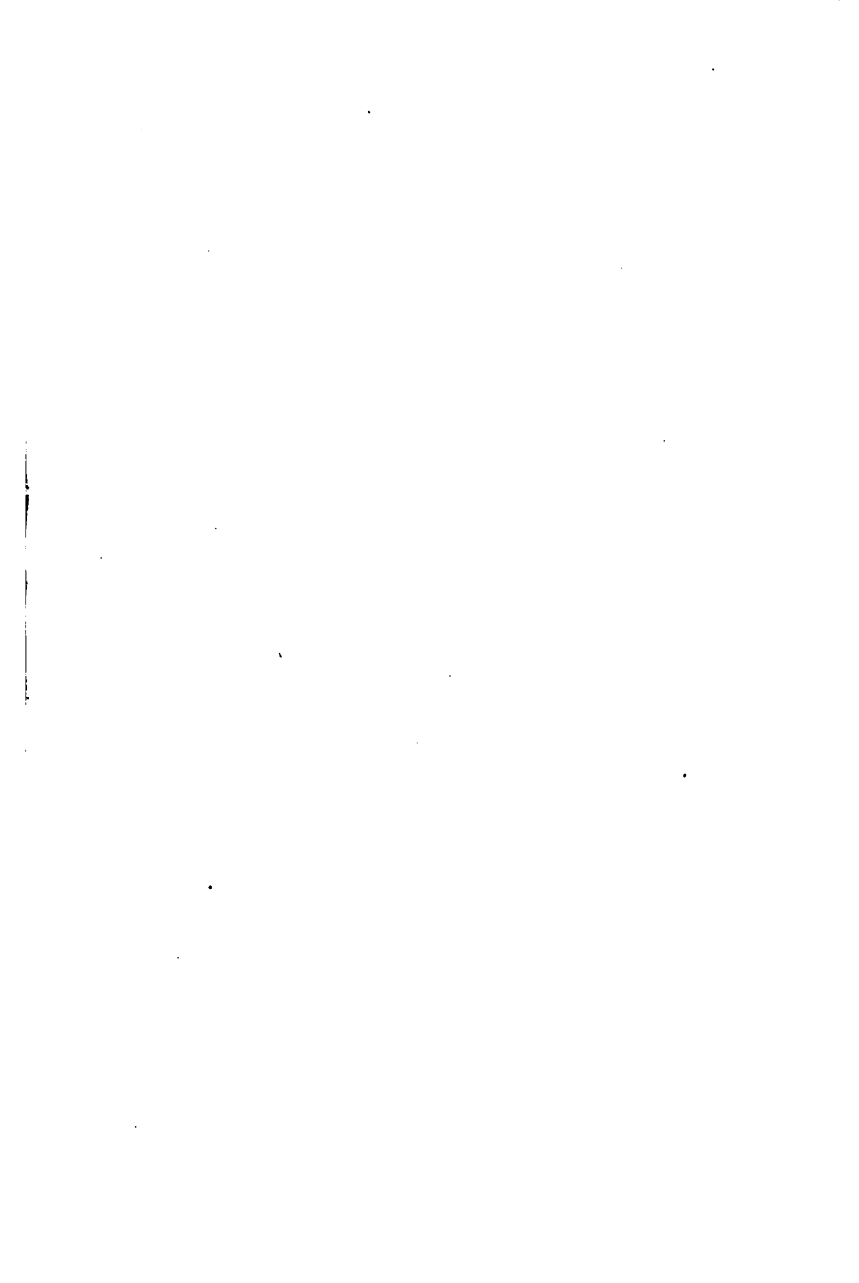


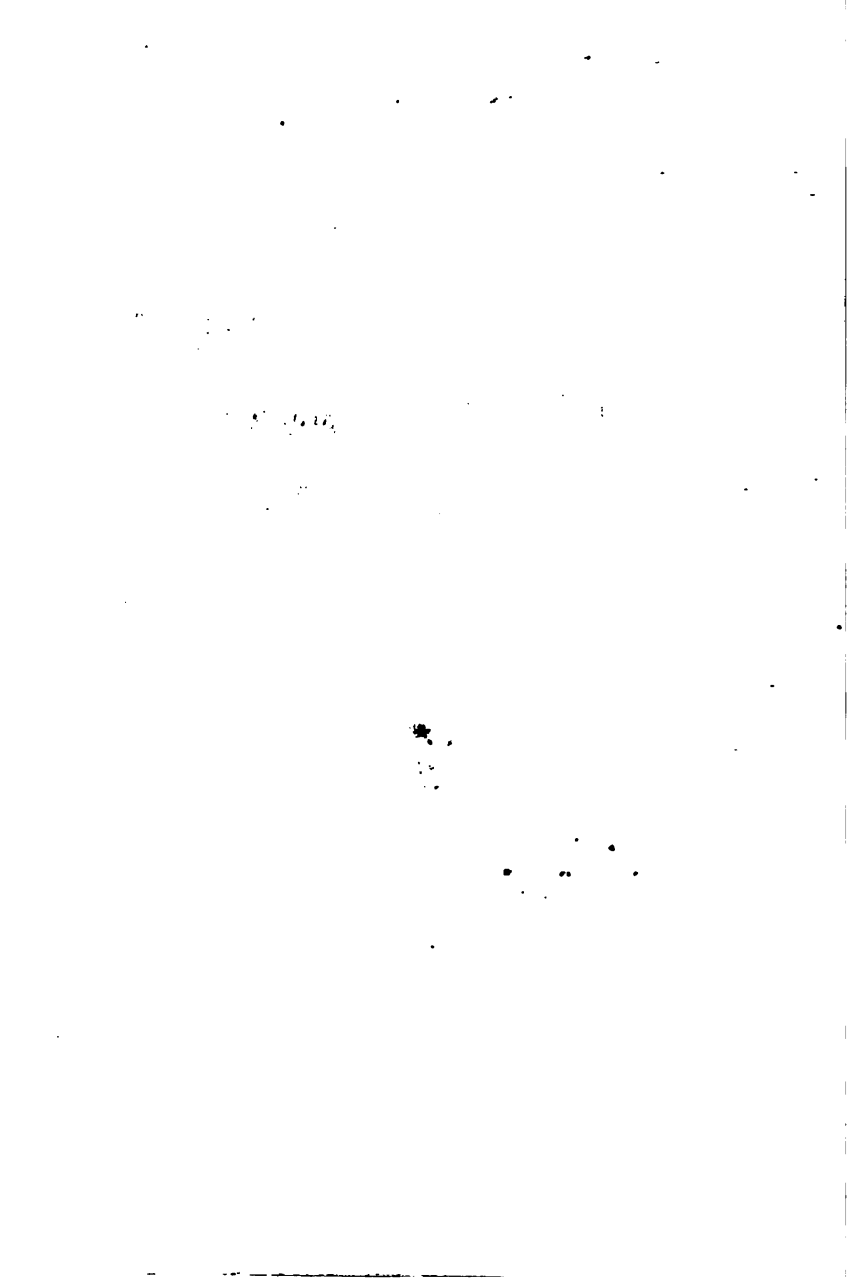


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